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ABSTRACT

The document presents the state of South Carolina's amended annual program plan for the fiscal year 1980, which describes how South Carolina plans to comply with the regulations mandated by the Education for All Handicapped Children Act (P.L. 94-142). Sections cover such aspects as policy regarding the right of handicapped students to education, goals (and a timeline) with respect to providing for the educational needs of handicapped children, identification, individualized education programs, procedural safeguards (including independent educational evaluations, parental consent, parents' rights, and due process hearings), least restrictive environment, protection in evaluation procedures, participation of private school children, placement in private schools, recovery of funds for misclassified children, hearings on Local Education Agency applications, annual program evaluations, and additional requirements (including conducting site visits, collection of data and reports, and audits of federal fund utilization). A section on confidentiality of records is also included. (DLS)

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FISCAL YEAR 1980
ANNUAL PROGRAM PLAN AMENDMENT
FOR PART B (P.L. 94-142)

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EC 121233

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II. RIGHT TO EDUCATION POLICY STATEMENT (§§121a.121 - 121a.122)

(1) If your State's FY 1978 policy statement is incorporated by reference in your FY 1979 plan, indicate this in the body of the plan. (2) If additional policies, regulations, etc., have been adopted by your State since the submission of your 1978 plan, (a) provide the law information in the body of your 1979 plan, or (b) include it in the appendix. Give the appendix number. Be sure to include information required under 121a.122(d).

The policy statement for right to education policy in the 1979 Amended Annual Program Plan is incorporated by reference from the 1978 Amended Annual Program Plan. See pages 7-10. See Attachments 18 and 19 for documentation of South Carolina's legal school age.

II. RIGHT TO EDUCATION POLICY STATEMENT (612(1))

Section 612(1) of the Act states that in order to qualify for Part B assistance, the State must have "in effect a policy that assures all handicapped children the right to a free appropriate public education."

A. Present a copy or draft of your State policy that must insure all handicapped children the right to a free appropriate public education.

It is the policy of the State of South Carolina to provide a free and appropriate public education for all handicapped children resident of the state, emphasizing special education and related services regardless of the agency delivering services. To achieve this policy, service delivery for special education and related services means the state, taken as a whole.

Consistent with current state law, all handicapped children of legal school age shall include handicapped children between six (6) and twenty-one (21), with the exception of hearing impaired children of legal school age, for whom legal school age is four (4) to twenty-one (21).

The state shall provide services first, to the unserved, and second, to the most severely handicapped within each disability who are receiving an inadequate education. This policy for a free appropriate public education for all handicapped children shall be effective September 1, 1978.

B. Describe the procedures the State Education Agency will undertake in implementing the Right to Education policy.

In reference to the RIGHT TO EDUCATION POLICY STATEMENT, SECTION A, the major delivery system of programs of special education and related services shall be the responsibility of the State Education Agency (SEA) and the Local Education Agency (LEA). Additional vehicles of service delivery shall include state agencies, institutions, and other participating organizations.

Consistent with the provisions of the Act, "the State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for handicapped children within the State, including all such programs administered by other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the state education agency." § 612 (6). The SEA presently ensures minimal standards of the LEA for the operation of public school programs including programs for the handicapped through the utilization of the Defined Minimum Program (DMP), approved by the State Board of Education (SBE), February 9, 1973, as amended.

The SEA shall develop procedures to insure that all educational programs for handicapped children within state government, but outside immediate SEA authority, meet standards prescribed by the SBE.

1. Minimal standards for all children receiving public education including the handicapped are specified in The Defined Minimum Program for South Carolina School Districts. Specific portions of the Department's DMP

relate directly and uniquely to the insurance and propriety of the establishment and maintenance of programs for handicapped children in local school districts. It is this mechanism, the DMP, that insures a basic comparability among all Local Education Agency (LEA) programs regardless of funding sources. In this activity, the Office of Programs for the Handicapped serves in a consultative basis to the Accreditation Section of the Office of General Education, which has the prime responsibility in the SEA for conducting audits to insure that the standards set forth in the DMP are implemented.

2. Should other agencies provide special education and/or related services to handicapped children, such agencies shall be required to develop Educational Standards which must be approved by the SBE.
   a. Private schools and private residential schools serving handicapped children placed there by a LEA/SEA must comply with SEA standards. (Reference Section XII, Placement in Private Schools).
   b. Day care programs under the auspices of a state agency must conform to the DMP or Educational Standards developed by licensing authority and be approved by SEA.
   c. An educational program under the auspices of a state agency with combination day and residential components, must conform with all applicable aspects of the

primary agency's DMP or Educational Standards.

3. Process for Development of Educational Standards

For the development of Educational Standards, see pages 136 - 146, Section XV, Annual Evaluation.

III. FULL EDUCATIONAL OPPORTUNITIES GOAL AND TIMELINES

A. GOAL STATEMENT. (§121a.123)
((1) Indicate (a) whether the goal statement in your 1978 plan is incorporated by reference and/or (b) whether additional policies, regulations, etc., have been adopted by your State which affect the goal. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.)

The goal statement for full educational opportunity in the 1979 Amended Annual Program Plan is incorporated by reference from the 1978 Amended Annual Program Plan. See page 12.

B. TIMETABLE. (§121a.125)
(Indicate whether the timetable in your 1978 plan is incorporated by reference or whether a revised table is being included in your 1979 plan. Show page number of the table.)

A revised timetable is being included in the 1979 Amended Annual Program Plan. See page 194.

C. STATE PERSONNEL SUMMARY SHEET. (121a.126)
(Revise Table 2A to update the contents with information from the 1977-78 school year. Show the page number of the updated table.)

(Indicate whether Table 2B and/or Table 2C are incorporated by reference or whether a revised table has been included in your 1979 plan. Show the page number of both tables.)

Table 2A has been revised and is included in the 1979 Amended Annual Program Plan. See page 195.

Tables 2B and 2C have been revised and are included in the 1979 Amended Annual Program Plan. See pages 196-197.

D. DATA REQUIREMENTS. (§121a.124 and 121a.126)
(Revise Table 3 to update the contents with information from the 1977-78 school year. Show the page number of the updated Table.)

Table 3 has been revised and is included in the 1979 Amended Annual Program Plan. See page 198.

III. FULL EDUCATIONAL OPPORTUNITIES GOAL AND TIMELINES (612(2)(A))

Section 612(2)(A) requires that each Annual Program Plan set forth detailed policies and procedures to assure that "there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal. . ."

A. Goal Statement

It is the goal of South Carolina to provide full educational opportunities to all handicapped children. All handicapped children, ages zero to twenty-one (0-21) years will be provided full educational opportunities through programs meeting standards established and approved by the State Board of Education.

Objective Statements

1. By 1977-78 all handicapped children ages six to twenty-one (6-21) with the exception of hearing handicapped, ages four to twenty-one (4-21), who have been actively located, identified, and evaluated will have available to them full educational opportunities.
2. By 1977-78 fifty percentum (50%) of all five (5) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.
3. By 1978-79 one hundred percentum (100%) of all five (5) year olds overtly handicapped within each

Although Section III, Full Educational Opportunities Goal and Timelines, is incorporated by reference, the following amendment (Objective Statement Number 3) is operative owing to change in State law.

3. By 1978-79 one hundred percentum (100%) of all five (5) year olds handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

category who have been actively located, identified, and evaluated will have available full educational opportunities.

4. By 1979-80 fifty percentum (50%) of all four (4) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.
5. By 1980-81 one hundred percentum (100%) of all four (4) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.
6. By 1981-82 fifty percentum (50%) of all three (3) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.
7. By 1982-83 one hundred percentum (100%) of all three (3) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.
8. By 1983-84 fifty percentum (50%) of all two (2) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

9. By 1984-85 one hundred percentum (100%) of all two (2) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

10. By 1985-86 fifty percentum (50%) of all one (1) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

11. By 1986-87 one hundred percentum (100%) of all one (1) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

12. By 1987-88 one hundred percentum (100%) of all zero to one (0-1) year olds overtly handicapped within each category who have been actively located, identified, and evaluated will have available full educational opportunities.

Goal Statement and Objective Statements specified above are written with the provision that authority and funding for their implementation exists (with reference to 0-5 years of age).

TABLE I. DETAILED TIMETABLE

DATE July 21, 1978

NAME OF STATE SOUTH CAROLINA

Show the percent (%) of the State's population of handicapped children expected to be receiving full educational opportunities in each school year. In the appropriate cells, *estimate the year you expect all children to be provided full educational opportunities (full service).

HANDICAPPING CONDITIONS	A. AGES 3 THRU 5			B. AGES 6 THRU 17		C. AGES 18 THRU 21					D. AGES 0 THRU 2 ESTIMATE THE YEAR FULL SERVICES ARE EXPECTED TO BE REACHED. SCHOOL YEAR NON-CATEGORIAL
	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	ESTIMATE YEAR* OF FULL SERVICE	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	SCHOOL YEAR 1977-78(%)	(%) SCHOOL YEAR 1978-79	(%) SCHOOL YEAR 1979-80	(%) SCHOOL YEAR 1980-81	ESTIMATE YEAR* OF FULL SERVICE	
a. Mentally Retarded	5%	6%	1986-87	100%	100%	100%	100%	100%	100%	100%	1987
b. Hard of Hearing	14%	21%	"	"	"	"	"	"	"	"	
c. Deaf	14%	21%	"	"	"	"	"	"	"	"	
d. Speech Impaired	56%	79%	"	"	"	"	"	"	"	"	
e. Visually Handicapped	52%	54%	"	"	"	"	"	"	"	"	
f. Seriously Emotionally Disturbed	2%	3%	"	"	"	"	"	"	"	"	
g. Orthopedically Impaired	18%	29%	"	[illegible]	"	"	"	"	"	"	
h. Health Impaired	17%	23%	"	[illegible]	"	"	"	"	"	"	
i. Specific Learning Disability	5%	5%	"	"	"	"	"	"	"	"	

*If these requirements are inconsistent with your State law, or practice, estimate the year you expect to reach full services in these areas.

A. Section 21.295 of the 1962 Code of Laws, as amended, states that "hearing handicapped pupils" means pupils of age four or older who are certified by a licensed specialist that their hearing deficit requires special classes of specialized educational instruction suited to their needs. There is no requirement however, that parents must place hearing handicapped students in public schools by age four. Mandatory school age is from age six.

B. Since 1969, a line item appropriation has been passed by the South Carolina General Assembly to provide funds for a pilot kindergarten program. By the end of the 1977-78 school year approximately 69% of the kindergarten population was served by the pilot program. The Education Finance Act of 1977 has been passed by the South Carolina Legislature. When funds are appropriated, it will be permissable, though not mandatory, for all five year old children to attend public schools in our State. The "Defined Minimum Program for South Carolina School Districts" which has been adopted as State Board Policy states that a child must be five years of age on or before November 1 of the current year to be enrolled in kindergarten. Handicapped kindergarten children are provided special education programs equal to those furnished children of mandatory school age.

C. The above (Item B) has been fully approved by the Legislature and subsequent funding has been appropriated. 9-2-78

TABLE 3A. - STATE PERSONNEL SUMMARY OF ACTUAL NUMBER OF PERSONNEL EMPLOYED DURING THE 1977-1978 SCHOOL YEAR FOR SERVICE TO THE 0-21 AGE HANDICAPPED POPULATION

PERSONNEL	1. Teachers of Special Classes	2. Resource Room Teachers	3. Itinerant/Consulting Teachers	4. Psychologists	5. School Social Workers	6. Occupational Therapists	7. Home-Hospital Teachers	8. Speech Pathologists	9. Audiologists	10. Teacher Aides	11. Vocational Education Teachers	12. Work-Study Coordinators	13. Physical Education Teachers	14. Recreation Therapists	15. Diagnostic Staff	16. Supervisory	17. Other Non-Instructional Staff	18. TOTAL
TOTAL (Sum of columns 1-17) (1)	1641	1347.2	498.2	205	133.8	22	83.9	44.4	7.3	755.2	248.1	12	139.1	48.2	109	179.9	869	6,343.3
MENTALLY RETARDED (2)	1253	736.4	38.8															
HARD OF HEARING (3)	42	43.7	2.3															
DEAF (4)	51	1.2																
SPEECH IMPAIRED (5)	6.5	27	381															
VISUALLY HANDICAPPED (6)	29	3.5	47.9															
SERIOUSLY EMOTIONALLY DISTURBED (7)	147	69.2	3.6															
ORTHOPEDICALLY IMPAIRED (8)	48	23.7	1.3															
HEALTH IMPAIRED (9)	.5	4.9	.3															
SPECIFIC LEARNING DISABILITIES (10)	64	437.6	23															

TABLE 28. - STATE PERSONNEL SUMMARY OF PROJECTED NUMBER OF PERSONNEL NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL DURING THE 1977-78 SCHOOL YEAR FOR SERVICES TO THE 0-21 AGE HANDICAPPED POPULATION

PERSONNEL	1. Teachers of Special Classes	2. Resource Room Teachers	3. Itinerant/Consulting Teachers	4. Psychologists	5. School Social Workers	6. Occupational Therapists	7. Home-Hospital Teachers	8. Speech Pathologists	9. Audiologists	10. Teacher Aides	11. Vocational Education Teachers	12. Work-Study Coordinators	13. Physical Education Teachers	14. Recreation Therapists	15. Diagnostic Staff	16. Supervisory	17. Other Non-Instructional Staff	18. TOTAL
TOTAL (Sum of columns b-j) (a)	1644	1351.2	498.2	210	148.8	25	86.9	46.4	15.3	757.2	252.1	20	141.1	51.2	114	184.9	876	6,422.3
MENTALLY RETARDED (b)	1253	736.4	38.8															
HARD OF HEARING (c)	42	45.7	2.3															
DEAF (d)	51	1.2																
SPEECH IMPAIRED (e)	6.5	27	381															
VISUALLY HANDICAPPED (f)	29	5.5	47.9															
SERIOUSLY EMOTIONALLY DISTURBED (g)	150	69.2	3.6															
ORTHOPEDICALLY IMPAIRED (h)	48	23.7	1.3															
HEALTH IMPAIRED (i)	.5	4.9	.3															
SPECIFIC LEARNING DISABILITIES (j)	64	437.6	23															

TABLE 2C. - STATE PERSONNEL SUMMARY OF PROJECTED NUMBER OF PERSONNEL NEEDED TO MEET THE FULL EDUCATIONAL OPPORTUNITIES GOAL DURING THE 1978-79 SCHOOL YEAR FOR SERVICES TO THE 0-21 AGE HANDICAPPED POPULATION

PERSONNEL	1. Teachers of Special Classes	2. Resource Room Teachers	3. Itinerant/ Consulting Teachers	4. Psychologists	5. School Social Workers	6. Occupational Therapists	7. Home-Hospital Teachers	8. Speech Pathologists	9. Audiologists	10. Teacher Aides	11. Vocational Education Teachers	12. Work-Study Coordinators	13. Physical Education Teachers	14. Recreation Therapists	15. Diagnostic Staff	16. Supervisory	17. Other Non-Instructional Staff	18. TOTAL
TOTAL (Sum of columns [illegible])	1726	1418.2	523.5	270	174.4	26.3	91.2	48.7	32	795	264.7	25	148.2	53.8	119.7	194.1	925	5,835.8
MENTALLY RETARDED	1313	773	41															
HARD OF HEARING	43	47	2.7															
DEAF	51	2.2																
SPEECH IMPAIRED	7	28	399															
VISUALLY HANDICAPPED	34	6	51															
SERIOUSLY EMOTIONALLY DISTURBED	157	72	4															
ORTHOPEDICALLY IMPAIRED	51	25	1.5															
HEALTH IMPAIRED	2	5	.5															
SPECIFIC LEARNING DISABILITIES	68	460	23.8															

TABLE 2. – CHILDREN SERVED AND SERVICE NEEDS IN PRIORITY AREAS	STATE SOUTH CAROLINA	DATE July 21, 1978

1977-1978

HANDICAPPING CONDITIONS	RECEIVING AN EDUCATION WHICH MEETS ALL EDUCATIONAL NEEDS* (1)			1ST PRIORITY NOT RECEIVING AN EDUCATION (2)			2ND PRIORITY, SEVERELY HANDICAPPED BEING EDUCATED, BUT REQUIRING ADDITIONAL SPECIAL EDUCATION AND RELATED SERVICES** (3)		
	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 5	6 thru 17	18 thru 21
Mentally Retarded	239	28,380	1,551	6	41	6	45	859	70
Hard of Hearing	137	1,230	27	2	2	0	17	64	10
Deaf	11	6	1	0	1	0	0	0	0
Speech Impaired	5,282	25,919	155	4	27	0	143	1,117	21
Visually Handicapped	70	746	16	1	0	0	2	52	4
Seriously Emotionally Disturbed	60	5,140	32	2	7	3	39	387	35
Orthopedically Impaired	141	987	31	3	2	0	13	60	6
Health Impaired	112	271	3	0	0	0	0	0	0
Specific Learning Disabilities	81	14,770	115	0	3	0	15	288	26
TOTAL	6,133	77,449	1,931	18*	83*	9*	274	2,827	172

*(1) - Include only handicapped children who are having all of their educational needs met.
**(3) - Include those handicapped children who are not having all of their educational needs met.

* These figures represent children suspected of being handicapped and awaiting process of evaluation for placement with appropriate service providers.

V. CHILD IDENTIFICATION (§121a.128)

A. POLICIES AND PROCEDURES.

(1) Indicate whether the policies and procedures on child identification in your State's 1978 plan are incorporated by reference and/or whether the State has adopted new/additional policies and procedures. (2) Provide the information in the body of your 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures on child identification in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 34-36.

V. CHILD IDENTIFICATION (612(2)(c))

Section 612(2)(C) of EHA-B, as amended by P. L. 94-142 states that each plan shall set forth in detail the policies and procedures which the State has undertaken in order to assure that "all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services."

A. Describe the policies and procedures which your State has undertaken to insure that all children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located and evaluated. The description must include the following: (121a.28(a)(1))

1. Name of the agency responsible for State-wide coordination of the planning and implementation of the child identification, location and evaluation efforts. (121a.28(b)(1))

   a. The State Department of Education is responsible in South Carolina for State-wide coordination of the planning and implementation of child identification, location and evaluation efforts.

2. A listing of other State agencies that are participating in the child identification, location and evaluation effort and a description of the nature and extent of their participation. (121a.28(b)(2))

   a. All state agencies and associations within the State of South Carolina which furnish special education and related services to handicapped children and youth from 0-21 years of age participate in the interagency referral system. This system known as "CATCH" (Census of Adolescents and

and Tracking of Children with Handicaps) was developed by a committee composed of representatives from each state agency/association serving the handicapped. By the use of this referral system, suspected unserved handicapped from 0-21 years of age are referred to the appropriate agency/school district for special education and related services. The referral is monitored by the State Department of Education, Office of Programs for the Handicapped, until the child is placed in an appropriate special education program suited to his needs or receives related services. Listed below are the participating agencies/ associations:

South Carolina Department of Mental Retardation

South Carolina Commission for the Blind

South Carolina Department of Health and Environmental Control

Columbia Urban League (Early Childhood Program for Exceptional Children)

Easter Seal Society

South Carolina Department of Mental Health

United Cerebral Palsy

South Carolina Speech and Hearing Clinics

South Carolina School for the Deaf and the Blind

South Carolina Department of Vocational Rehabilitation

Charles Lea Development Center

South Carolina Head Start Programs

Babcock Center

South Carolina State Department of Education

South Carolina Office of Child Advocacy

South Carolina Children's Foster Care Review Board System

Office of the Governor Ombudsman Program

Hitchcock Rehabilitation Center

All of these agencies/associations furnish data to the State Department of Education which is used for planning of future programs for handicapped children and youth in South Carolina.

Although Child Identification was incorporated by reference, further clarification describing the methods used to determine which children are and are not receiving special education and related services is given below.

CATCH (Census of Adolescents and Tracking of Children with Handicaps) was conceptualized as an interagency referral system between State Agencies/Associations serving the handicapped to assure that all suspected unserved handicapped children and youth from birth through 21 years of age receive appropriate special education and related services. When a suspected unserved handicapped child is located, a referral form is sent by the referring agency to the appropriate agency having programs/services for that child. A copy of the referral is sent to the State Department of Education, Office of Programs for the Handicapped, which serves as the monitoring agency for all referrals. A response form must be submitted every thirty (30) days by the receiving agency/association to the referring agency/association and the State Department of Education until the child is served or found to be non-handicapped. Quarterly reports are submitted to each participating agency/association informing them of the current status of CATCH referrals.

Each suspected unserved handicapped child receives diagnosis/evaluation according to criteria contained in Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped which has been approved by the State Board of Education. Those children who are identified as handicapped are served with the appropriate special education and related services.

Children referred through CATCH who do not meet the criteria contained in Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped are classified as non-handicapped and are removed from the tracking system.

Each local school district is required to report to the State Department of Education, Office of Programs for the Handicapped, in their Public Law 94-142 Local Education Agency application, handicapped children who have been identified as a result of Child Find Activities. They are also required to describe Child Find procedures used to insure that all children residing within the jurisdiction of the Local Education Agency who are handicapped, regardless of the severity of the handicap, and in need of special education and related services are identified, located, and evaluated.

Children who have complicated or severe handicapping conditions may be referred for diagnosis/evaluation to the Evaluation, Diagnosis, and Prescriptive Program (EDPP) by one of the eight (8) diagnostic centers under contract with the State Department of Education, Office of Programs for the Handicapped. Each child receives a social history, medical examination, and psychological and educational testing, which results in the development of an educational plan for that child.

Those children meeting criteria contained in Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped are currently receiving needed special education and related services. Those children who do not meet this criteria or are awaiting diagnosis/evaluation are not currently receiving special education and related services.

VI. INDIVIDUALIZED EDUCATION PROGRAM (121a.130)

A. STATUTE, POLICY, OR STANDARDS

(1) Indicate whether the statute, policy or standards on individualized education programs in your State's 1978 plan are incorporated by reference and/or whether the State has adopted new/additional statutes, policies, or standards. (2) Provide the information in the body of your 1979 plan, or include it in the appendix. Give appendix number.

The policies on Individualized Education Programs in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 41-46.

B. NEW REQUIREMENTS

(1) Include information in your State's 1979 plan which shows that each public agency in the State maintains records of the individualized education program for each handicapped child as required by 121a.130(a) of the Part B Regulations.

The State Education Agency (SEA) shall have the responsibility of insuring that an appropriate Individualized Education Program (IEP) is maintained on each child receiving special education and related services where warranted. The SEA meets this responsibility through the following mechanisms:

a) All Local Education Agencies (LEA's) must certify in their applications for funds under the Act that an IEP consistent with the provision of §602(19) of Public Law 94-142 has been developed, maintained, and updated on at least an annual basis.

b) All State Operated Programs (SOP's) must certify through their Educational Standards that an IEP consistent with the provisions of §602(19) of Public Law 94-142 has been developed, maintained, and updated on at least an annual basis.

c) Any contract for direct delivery of services to handicapped children must assure by the party of the second party that an IEP consistent with the provisions of §602(19) of Public Law 94-142 has been developed, maintained, and updated on at least an annual basis.

d) The SEA monitors minimally fifty (50) per centum of all LEA's, fifty (50) per centum of all SOP's, and fifty (50) per centum of all directly contracted programs on an annual basis. The remaining fifty (50) per centum are monitored for this purpose on alternate years, thus insuring that all service providers are monitored at least every other year. For further information, attention is directed to that section of the Plan relating to monitoring activities.

e) The SEA collects a sampling of IEP's annually from all LEA's, SOP's, and contracted programs for the purpose of fulfilling the evaluation requirements of §613(a)(11) of Public Law 94-142 and §121a.146 and 121a.601 of the Final Regulations, Federal Register, Volume 42, Number 163. Variables are controlled through the randomizing process consistent with the evaluative design.

(2) Include procedures which the State educational agency follows in evaluating individualized education programs as required by 121a.130(b)(2) of the Part B Regulations.

The SEA utilizes the following procedures in the evaluations of IEP's:

a) A portion of the evaluation of programs for the handicapped shall consist of composites of site audit reports. This information shall be structured by personnel in the

Office of Programs for the Handicapped in such a manner to indicate commonalities in programmatic effectiveness.

b) The following procedures are utilized by the SEA to specifically evaluate IEP's.

i. At least one (1) IEP shall be obtained from each LEA for the Office of Programs for the Handicapped to perform a quantitative evaluation. The system of selection for collection shall name specifically the surname of the first child in each LEA (a similar, but not identical, selection shall be used in subsequent collections.) Such collection shall be with respect to varying models to insure a broad scope of IEP's. Additionally, a minimum of five (5) IEP's from each State Operated Program shall be collected per center.

ii. Fifty per centum (50%) of the IEP's collected shall have a completed questionnaire with reference to short-term objectives. Short-term objectives shall be structured in each of the following three (3) domains, i.e., cognitive, affective, and psychomotor.

iii. Analysis of the results obtained from the design above shall be performed by the Office of Programs for the Handicapped and transmitted to the Bureau of Education for the Handicapped (BEH) no later than June 30 of each year.

iv. Utilization of Analysis: Results obtained from these analyses shall be used in program planning, budgeting, and personnel preparation during ensuing years.

c) The SEA audits all school districts at least every other year and the IEP is one component of the audit design. The principle criterion in the site audits referenced to IEP's is the definitiveness from a quantitative prospective of the IEP. Qualitative evaluation is subsumed under Section B above.

3) The following are procedures utilized by the SEA:

(a) The SEA shall require that direct service providers implement the IEP as soon as possible following the IEP planning conference; moreover, the IEP shall be in effect prior to the initiation of the actual service delivery.

(b) Regarding participants in the IEP planning conference, the SEA shall require that in the promulgation of an IEP for a child who has been evaluated for the first time, the participants include one (1) person from the evaluation team or an agency representative knowledgeable about the evaluation procedures and the results.

(c) Under parental participation in the IEP planning conference, the SEA shall require the SEA's and SOP's to provide early notification of the meeting, including a purpose, time, location and who will be attending, time and place agreed upon mutually by both the agency and the parent(s), and the right of the parent(s) to receive a copy of the IEP at his request.

(d) For a child participating in private schooling, the SEA shall insure that the public agency shall conduct a meeting to develop the IEP prior to the referral of a child to a private program; however, nothing in this requirement shall be construed as a prohibitor for the private school's participation in the promulgation of the IEP. (See Item c. p. 108). Further, after placement in the private school, the SEA shall require that the public agency insure that meetings are held to review the IEP and that at these meetings, parent(s) and an agency representative are present, involved in the decision making and agree to changes prior to implementation.

The information relative to IEP's for handicapped pupils participating in private schools found on Page 40 and 40a, item d, has been revised as follows:

(d) For a child participating in private schooling, the SEA shall ensure that the public agency shall conduct a meeting to develop the IEP prior to the provision of services by the public agency to the child. The public agency shall ensure that an appropriate representative from the private school where the child is enrolled will participate in the development of the IEP and annual review.

VI. INDIVIDUALIZED EDUCATION PROGRAM (612 (4))

Section 612 (4) of the Act states that in order to qualify for assistance under Part B, the State must demonstrate that "each local education agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in Section 614 (a)(5)."

Section 614 (a)(5) states that a local education agency or an intermediate education unit must submit an application for funds to the State education agency. The application shall "provide assurances that the local education agency or intermediate education unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate, revise its provisions periodically but not less than annually."

A. Present a copy or draft of the policies your State will utilize to implement the requirement that local education agencies will maintain individualized education programs and establish, review, and revise individualized education programs.

The following plan has been developed by the South Carolina Department of Education for approval by the State Board of Education, (SBE) to insure that the LEA's/IEU's, participating agencies, and private schools serving handicapped pupils, when placed by the LEA or SEA, comply with the requirements of the law pertaining to the development and review of the Individualized Education Plans (IEP's) for handicapped children.

1. Definition of IEP.

"The term 'individualized education program' means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children..." § 602 (19).

2. Time Requirements for the Development of the IEP.

For pupils currently receiving special education/related services the IEP must be completed by the beginning of the next school year. For pupils initially entering programs of special education/related services, the IEP planning conference must be conducted within thirty (30) days of the formal evaluation and subsequent determination of pupil's eligibility for special education/related services. The IEP must be completed within thirty (30) days after program entry. Rationale: It is expected that the nucleus of an IEP will be developed prior to program entry. Additional specificity (Item 4-c, Short-term instructional objectives for each pupil) will be added to culminate in a completed IEP within thirty (30) days after program entry or in the beginning of the school year for former participants.

3. Persons Responsible for Developing the IEP.

   a. Representative of the LEA/IEU or private school.

      The representative must be a person who meets State certification requirements or other State-Adopted criteria for school administrators, supervisors or special education instructional personnel.

   b. Pupil's Classroom Teacher.

      This may include the pupil's regular teacher and/or the special education teacher, if pupil is receiving special education and/or related services prior to the IEP planning conference.

The information set forth and incorporated by reference on Page 42, Number 2 relative to calendar days is clarified below:

> "Days" unless otherwise stated and any reference to "days" obviously means calendar days.

The information set forth and incorporated by reference on Page 42, Number 2 has been revised as follows:

2. Time Requirements for the Development of the IEP.

   For pupils currently receiving special education/related services the IEP must be completed by the beginning of the next school year. For pupils initially entering programs of special education/related services, the IEP planning conference must be conducted within thirty (30) calendar days of the formal evaluation and subsequent determination of pupil's eligibility for special education/related services. The IEP must be completed prior to placement.

c. Parent/Surrogate.

If parent/surrogate has a communication barrier, the LEA/IEU must provide an interpreter. If parent/surrogate cannot attend, the LEA/IEU must use other methods, i.e. social worker, visits, telephone conference, teacher home visits, to insure parental participation. Parent/surrogate may waive the right of attendance by submitting such a request in writing to the LEA/IEU. If parent/surrogate refuses or waives the right to attend, the LEA/IEU must substantially document the attempt made to insure parental participation.

d. Pupil

The pupil concerned should be involved in developing the IEP unless it is clearly not feasible for his/her participation.

e. Other

Included, also, may be the psychologist, guidance counselor, and/or any other provider of related services and/or health services who may contribute meaningful information in the development of the IEP.

4. Components of IEP.

The IEP shall be developed consistent with § 602 (19) and shall include a written statement of:

a. The present levels of educational performance of each pupil. This refers to a description of the pupil's level of performance as appropriate to the area of handicapping condition, i.e. reading, math, speech/

The information set forth and incorporated by reference on Page 43, Number 3-e has been revised as follows:

e. Other

Included, also, may be the psychologist, guidance counselor, and/or any other provider of related services and/or health services who may contribute meaningful information in the development of the IEP. In addition, parents, surrogates, or the agency shall have discretion to include any other party they wish in the promulgation of the IEP.

language development, visual/auditory deficits etc. and a description of the child's learning styles, strengths, and weaknesses.

b. Annual goals for each pupil. These refer to terminal behaviors/performances stated in measurable terms as determined from the results of assessment procedures.

c. Short-term instructional objectives for each pupil. These refer to a series of sequential and measurable intermediate steps which must be accomplished toward meeting the stated annual goals.

d. The specific educational services to be provided to each pupil and the extent to which each pupil will be able to participate in regular educational programs.

This refers to a description of (1) all educational services required to meet the unique needs of the pupil as reflected in the IEP including those related services as defined in § 602 (17), (2) instructional strategies, and/or techniques, (3) any special instructional media and materials to be provided and (4) the type of physical education program in which the pupil will participate. The plan, additionally, should state the type of handicapping condition and the specific model recommended with reference to least restrictive environment as required in Public Law 93-380.

e. The projected date for initiation and anticipated duration of such services.

This refers to the projected starting and ending date of educational programs/related services to be provided for each pupil.

f. Appropriate objective criteria and evaluation procedures and schedules to determine, at least on an annual basis, if instructional objectives are being achieved.

The evaluation of the IEP shall be in consonance with the stated objectives and must reflect the degree to which these objectives have been attained. The IEP will be reviewed as warranted by the pupil's progress in meeting the stated goals and objectives; however, the plans for each pupil must be reviewed and updated, at least annually. A projected date, by month and year, of the annual review shall be included. For pupils receiving initial special education/related services, the annual review must be completed during the first and current year of special education enrollment. With the exception of the participation by the parent/surrogate, or guardian, the evaluation of the stated objectives shall be performed/developed by persons duly credentialed. The objectives developed and results obtained as a product of evaluation shall be expunged within time frames established by the confidentiality guidelines as regulated by the State Board of Education and approved by the Bureau of Education for the Handicapped, United States Office of Education. (reference Confidentiality, Attachment #1)

The results of the evaluation shall be in written form and readily accessible to parents and State Education Agency (SEA) personnel.

g. A list of the individuals responsible for developing the IEP must be maintained by the LEA/IEU. LEA personnel shall have final responsibility for the development of the individual education plan with the option to delegate the development of the IEP to the private school or participating agencies/organizations.

B. Describe the procedures the SEA will undertake in implementing the Individualized Education Program policy.

1. The SEA has established procedures for IEP audits. Detailed elaboration of this monitoring mechanism is subsumed under Section XV Annual Evaluation.

VII. PROCEDURAL SAFEGUARDS (§121a.131)

A. PROCEDURES IN 1978 PLAN

(1) Indicate whether the procedural safeguards in your State's FY 1978 plan are incorporated by reference or whether the State has adopted new/additional procedures. (2) Provide the information in the body of your 1979 plan, or include it in the appendix. Give appendix number.

The procedural safeguards in the 1979 Amended Annual Program Plan are incoporated by reference from the 1978 Amended Annual Program Plan. See page 52 and Attachment 2.

B. NEW REQUIREMENTS

Include procedural safeguards in your State's FY 1979 plan which insure that the requirements in the following sections of the Part B regulations are met:

1. Independent Educational Evaluation (§121a.503)
   - a. The State Education Agency has established policies for "independent educational evaluations" consistent with the requirements of §121a.503a. (Reference Attachment 2)
   - b. The State Education Agency shall adopt the requirements set forth in §121a.503(b)-(e) which provide for:
     - (1) Parent right to evaluation at public expense. "The public agency may initiate a hearing under §121a.506 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to obtain an independent educational evaluation, but not at public expense."
     - (2) Parent initiated evaluations. "If the parent obtains an independent educational evaluation at private expense, the results of the evaluation

must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child, and may be presented as evidence at a hearing under this subpart regarding the child."

(3) Requests for evaluations by hearing officers. "If a hearing officer requests an independent evaluation as part of the hearing, the cost of the evaluation must be at public expense."

(4) Agency criteria. "Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation."

2. Consent (121a.504b)
   Reference Attachment 2

3. Procedures Where Parents Refuse Consent (121a.504c)
   Reference Attachment 2

4. Informing Parents of Free/Low Cost Legal Services.

The following services may be of direct assistance in apprising parents and/or handicapped children of free/reduced cost for legal services:

(a) Local principal or superintendent

(b) County:

Public Defender
Juvenile Officer
Legal Aid Society Agency

(c) State Department of Education
Rutledge Building
Columbia, South Carolina 29201

State Superintendent
758-3291

Deputy Superintendent

a. Finance and Operations
758-2871

b. Instruction
758-2348

c. Administration and Planning
758-3508

Legal Affairs
758-7832

(d) Attorney General's Office
P.O. Box 11549
Columbia, South Carolina 29211
758-3385

(e) University of South Carolina
Columbia, South Carolina 29208

School of Education

a. Center for Integrated Education
777-4837

b. Professor of Education Law
777-5161

School of Law

a. Student Clinic
777-8194

b. Professor of Education Law
777-4155

5. List of Hearing Officers (§ 121a.507c)

Each public agency providing special education and/or related services within the ages and definitions in Public Law 94-142 shall maintain a list of the persons who serve as Hearing Officers within the jurisdiction of the agency. The list must include a statement of the qualifications of the Hearing Officer.

6. Prohibiting New Information (§ 121a.508(a)(3)

The State Education Agency/Local Education Agency /SOP will insure that in any due process hearing, the Hearing Officer will take such steps as necessary to prohibit the introduction of any evidence that has not been disclosed to both parties within five (5) days prior to a hearing.

7. Parents Rights (§ 121a.508(b)
Reference Attachment 2

8. Hearing Decision; appeal (§ 121a.509)
Reference Attachment 2

9. Duties of Reviewing officer (§ 121a.510(b)
Reference Attachment 2

10. Decision Final - unless civil action (§ 121a.510(c)
Reference Attachment 2

11. Timelines and Convenience of Hearings/Review (§ 121a.512)

(a) "Each public agency shall insure that not later than forty-five (45) days after the receipt of a request for a hearing:

(1) a final decision is reached in the hearing; and

(2) a copy of the decision is mailed to each of the parties.

(b) The State Educational Agency shall insure that not later than thirty (30) days after the receipt of a request for a review:

(1) a final decision is reached in the review.

(2) a copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place reasonably convenient to the parents and child involved."

12. Implementation Procedures - State Education Agency (121a.136)

The State Education Agency utilizes the following procedures in informing each public agency of its responsibility for insuring effectual implementation of procedural safeguards for handicapped children served by the public agency.

(a) Dissemination of policies/procedures developed by the State Education Agency to insure procedural safeguards.

(b) Conducting conferences for Local Education Agency administrators and agency heads to explain procedural safeguards.

(c) Requiring assurances by Local Education Agencies and other public agencies through Public Law 94-142 entitlement applications or contracts that policies/procedures have been established to insure procedural safeguards.

(d) Conducting audits of public agencies to insure that polices/procedures for insuring procedural safeguards have been established and are being adhered to.

C. ADDITIONAL INFORMATION

1. Written notice and contents thereof when public agencies refuse to take action (121a.504(a)(2)) and (121a.505(a)(2))

In accordance with sections 121a.504(a)(2), written notice must be provided to parents when the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate education to the child. The notice must include a description of the action refused by the agency, an explanation of why the agency refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected (121a.505(a)(2)). When LEA's/SOP's refuse such action as set forth in section 121a.504(a)(2), the parent may request a due process hearing. Additionally, the parent may notify the State Protection and Advocacy Organization for the Handicapped or the Department of Education that the LEA/SOP has refused to take appropriate action. Through employment of the system for investigating complaints, the SEA insures that appropriate action shall be taken in the implementation of Public Law 94-142.

2. Parental Consent (121a.504(c))

Except before a preplacement evaluation (121a.504(a)) and initial placement into a special education program (121a.504(b)), benefits to handicapped children cannot be denied to the child on the basis that parental consent is absent. Public agencies must invoke procedural due process prior to implementation of service delivery in those areas where parental consent is not normally required; service delivery in these instances, therefore, shall be contingent upon the decision of a Hearing Officer.

3. Hearing involving initial admission to public school (121a.513(b))

The SEA insures that when a complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school program until the completion of all proceedings.

4. Selection of Surrogates (121a.514(d))

The SEA insures that surrogate parents may not be an employee of the public agency involved in the education or care of the child. Surrogate parents shall be individuals who have no vested interest which would conflict with primary allegiance to the child.

5. Hearing Review (121a.510 (b) (1))

The SEA insures that Hearing Officers will seek additional evidence if needed in making educational decisions for handicapped pupils.

Clarifications/Revisions of Procedural Safeguards

1. Written Notice

   (a) To further clarify the policy of the SEA, written notice must be provided to parents before a public agency "proposes to initiate or change the identification or educational placement of a child" as previously specified in Attachment #2, page 2, item II-A.

   (b) Clarification of the policy of the SEA, as set forth on page 51a, requires that written notice must be provided to parents by a public agency when the public agency "refuses to take such action" as prescribed in § 121a.504(a)(2).

2. Prior Notice to Parents

   (a) As stated on page 51a, Attachment #2, page 2, item B(a) and page 3, item C(a), the SEA requires that prior notice to parents include a description of the action proposed or refused by the agency, and an explanation of why the agency proposes or refuses to take action. Additionally, prior notice to parents must include a description of the options considered by the agency and the reasons for rejecting these options.

   (b) As indicated in Attachment #2, page 2, item B-1 (b)(c)(f) and page 3 item C-2(b), the SEA requires that prior notice to parents must include a description of evaluation procedures, tests, records or reports on which the action is based.

(c) Attachments #1, #2, #3, and the additional information provided on pages 47-52 and 53-59a of this Plan contain provisions consistent with the procedural safeguards outlined in § 121a.505(a)(1). It is the policy of the SEA that prior notice to parents must include specific information detailing procedural safeguards available to them under § 121a.505(a)(1).

(d) Consistent with § 121a.505(a)(4), the SEA requires that prior notice to parents by public agencies include a description of any additional factors relevant to the action deemed necessary.

(e) To clarify the policy of the SEA as indicated in Attachment #2, page 1, item I-C, the SEA requires that prior notice to parents be written in common, understandable language.

(f) To clarify the policy of the SEA as specified in Attachment #2, page 1, item I-C, the SEA requires that prior notice to parents be provided in the native language of the parents.

(g) To clarify the policy of the SEA as indicated in Attachment #2, page 1, item I-C, the SEA requires that prior notice to parents be provided both in writing and orally. Additionally, the SEA requires that if the native language is not written, provisions will be made for the translation of the notice.

Consistent with § 121a.505(b)(2), (C)(1)(2)(3), the SEA requires that parent permission be based upon "informed consent" and that parents understand the notice. Additionally, the SEA requires written documentation that parents understand all items contained in the notice.

3. Parental Consent

   To clarify the policy of the SEA as described on page 51a, item 2, consent is not required as a benefit to the parent or child except for those instances outlined in § 121a.504(b)(i)(ii).

4. Procedures for Impartial Due Process Hearings

   (a) To clarify the policy of the SEA set forth in Attachment #2, page 5, item III-A and page 7, item IV-A, parents or a public agency may initiate a hearing in instances described in § 121a.504(a)(1) and (2). Specifically, due process hearings may be initiated when a public agency:

      (i) proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of a free appropriate public education to the child, or

      (ii) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

   (b) Attachment #2 and the additional information contained in pages 47-52 describe the responsibilities of the SEA/public agency in conducting due process hearings. Consistent with § 121a.506(b), it is the policy of the SEA that the SEA or public agency is responsible for the conducting of due process hearings.

(c) As specified in Appendix #2, page 1, item D, the policy of the SEA is that a hearing officer must be unbiased, disinterested and independent. An individual employed by an agency involved with the care or education of the child would be unable to serve as a hearing officer in a due process hearing involving that specific child. SOP's and any other service providers as well as LEA's are required by the SEA to adhere to this established policy in order to meet the requirement of § 121a.507(a)(2).

Additionally, it is specified in Attachment #2, page 1, item D(3) that a hearing officer may not be an officer, employee or agent of the LEA. By virtue of this policy a school board official cannot serve as a hearing officer for pupils within the jurisdiction of that specific LEA.

(d) The policy of the SEA as indicated in Appendix #2, page 6, item III-B(5) and C(2) is that parents have the right to be represented by legal counsel and to have witnesses present in their behalf during a due process hearing. By virtue of this policy, the SEA provides that witnesses for parents may include "individuals with special knowledge or training with respect to the problems of handicapped children".

(e) The policy of the SEA as set forth in Appendix #2, page 6, item 6, is revised to permit parents the right to have the child present during the due process hearing. This right is not conditional upon the decision of the hearing officer in cases where it may not be in the best interest of a child to be present during the hearing.

(f) Due process hearings as required under Public Law 94-142 and as established by the SEA in Appendix #2 and pages 47-52 of this Plan, must be conducted by any public agency in instances such as those described in § 121a.504(a)(1)(2) arise. The SEA procedures governing due process hearings have been disseminated to State Operated Programs (SOP's) and other agencies for implementation. LEA's, SOP's or any other agency conducting hearings shall have the right to appeal the decision to the SEA administrative review of procedural due process hearings. An appeal to the SEA shall be achieved through a letter of request, by either party, to the Director, Office of Programs for the Handicapped, State Education Agency.

VII. PROCEDURAL SAFEGUARDS

Section 612 (5)(A) states that in order to receive assistance under Part B, a State must demonstrate that it "has established procedural safeguards as required by Section 614 of the Act."

A. Present a copy or draft of SEA policy on Procedural Safeguards.

1. The South Carolina Department of Education has established policies approved by the State Board of Education to insure that handicapped children and their parents are guaranteed procedural safeguards in decisions regarding evaluation, and educational placement of handicapped children. (Reference Due Process, Attachment #2)

B. Describe the procedures the SEA will undertake in implementing the Procedural Safeguards policy.

1. The SEA has established procedures for LEA program audits. Detailed elaboration of this monitoring mechanism will be subsumed under Section XV Annual Evaluation.

VIII. LEAST RESTRICTIVE ENVIRONMENT (§ 121a.132)

A. PROCEDURES

(1)Indicate whether the procedures on least restrictive environment in your State's FY 1978 plan (Part A2 and B) are incorporated by reference or whether the State has adopted new/additional procedures. (2) Provide the information in the body of your FY 1979 plan, or include it in the appendix. Give appendix number.

Although the 1978 Amended Annual Program Plan contained approved procedures for the ensurance of Least Restrictive Environment, it is felt that additional clarification is warranted. Thus, the 1979 Amended Annual Program Plan further elaborates Least Restrictive Environment.

The Office of Programs for the Handicapped, South Carolina Department of Education, coordinates an inter-agency referral system known as CATCH (Census of Adolescents and Tracking of Children with Handicaps). It is through this mechanism that children identified as handicapped or suspected as handicapped can be referred to appropriate agencies for educational placement. The SEA shall continue to refer and coordinate this inter-agency referral system in order to provide a continuum of services available to handicapped children. State Board of Education regulations require that LEA's provide alternative program models, i.e., resource, itinerant, etc. for service delivery to handicapped children.

The State Education Agency (SEA) shall inform all applicable public and private agencies operating educational programs for handicapped children relative to the requirements of the Least Restrictive Environment provision and shall assist them with its implementation. The following agencies include:

I. Local Education Agencies

II. State agencies delivering educational programs/related services to handicapped children

III. Private schools in which the SEA or LEA places or refers a handicapped child

The SEA shall require that all participating public and private agency officials sign a written agreement insuring compliance with the Least Restrictive Environment provision (Reference Section XV Annual Evaluation).

The following procedures shall be implemented to insure compliance with this provision:

1. A staffing committee (placement committee) will review all pertinent records, results of psychometric testing, behavioral histories, adaptive behavior scales, etc. It will be the function of the staffing committee to recommend, describe or suggest procedures designed to generate written individual educational plans for all handicapped pupils.

2. Placement procedures for handicapped pupils will proceed only after procurement of parental consent and completion of "Due Process Procedures". Placement shall be determined in accordance with the least restrictive alternative concept. Should changes in placement be deemed necessary, the procedures for due process will be repeated. The district superintendent, or his designee, or SOP Administrator will verify appropriate placement by his signature.
3. A process and procedure has been defined to provide for re-evaluation (Reference Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped, Attachment 3). Each pupil's educational placement will be determined at least annually based upon his or her individualized educational plan.
4. Procedures have been established which shall initiate a formal appeal process for both parents and students (reference Due Process, Attachment 2). The appeal process shall be clearly written and accessible to parents.
5. The SEA shall have the responsibility for insuring that LEA'S and other appropriate public and private educational agencies either provide or have access to a continuum of services for handicapped school

children. "Continuum of Services" shall mean from least restrictive to most restrictive educational setting. The greatest number of handicapped pupils will receive appropriate services in an itinerant or resource room program. In an itinerant program the specialist will provide continual ongoing services to handicapped pupils and teachers taught in regular classroom settings. A resource room program shall involve pupils who will remain in regular classrooms for the major part of the day and will be scheduled into the resource room for one or more periods of individualized instruction contingent on pupil's needs. The option of self-contained classes shall be considered when the diagnostic assessment indicates that the pupil's needs cannot be met by placement in the general education program. Self-contained programs are for those students who demonstrate substantial handicapping conditions as evidenced by diagnostic procedures and subsequent educational plan. More profoundly handicapped individuals shall be referred to special day schools and residential facilities.

The Continuum of Services model calls for the implementation of various alternatives to special classes and separate schools. Normally, the provisions of least restrictive environment would include the following program models:

   a. itinerant program models
   b. resource room models
   c. self-contained models
   d. homebound programs
   e. residential institutions

6. The SEA has established procedures for LEA and other appropriate private and state agency audits. The SEA shall monitor all applicable public and private agencies within the State in order to insure the effective implementation of the least restrictive alternative provision for each handicapped child. The SEA shall require that all applicable agencies implement the following requirements (Reference Section XV Annual Evaluation).
   a. That each handicapped child's educational placement shall be individually determined on at least an annual basis.
   b. That, to the extent necessary to implement the individualized education program for each handicapped child in an applicable agency, that agency must provide, or arrange for the provision of, all of the alternative settings included in Table 4, page 199 & 200.
   c. That, except where a handicapped child's individualized education program requires some other arrangement, the child shall be educated in the school which he/she would normally attend if not handicapped.

The following information is provided to further clarify the requirements of: (§121a.550 (b)(1)) and (§121a.550 (b)(2)).

The SEA has undertaken procedures to insure that each public agency has procedures that provide:

a) to maximum extent appropriate handicapped children in public or private institutions or other care facilities are educated with children who are not handicapped (121a.550 (b)(1))

b) special classes, separate schooling or other removal from regular educational environment occurs only when nature or severity of handicap is such that education in regular classes with supplementary aid and services cannot be achieved satisfactorily (121a.550 (b)(2)).

The following information is provided to further clarify the requirements set forth under (§121a.552 (a)(3)).

When it is necessary for a child to receive an appropriate education other than in the school he or she would attend if not handicapped, the placement shall be as close as possible to the child's home.

d. That action must be taken to assure that the implementation of the Least Restrictive Environment provision will not produce a harmful effect on the child or reduce the quality of services which he/she requires.

Detailed elaboration of this monitoring mechanism is subsumed under Section XV Annual Evaluation.

ADDITIONAL INFORMATION

Act 1070 of 1970 of South Carolina prescribes certain powers, duties and functions of the South Carolina Department of Mental Retardation including the delivery of a comprehensive range of services by the Department.

> " 'Mental Retardation' includes all services concerned with research, prevention and the detection of mental retardation and all services relating to the education, training, rehabilitation, care, treatment, supervision and control of mentally retarded persons except for those services which have been or may be explicitly delegated by law to state or local agencies other than the Department."

The Department of Mental Retardation maintains a policy of "deinstitutionalization" consistent with Act 1070 of South Carolina and Least Restrictive Environment is further assured under the authority of the Department of Health, Education and Welfare Regulations of August 23, 1977 §121a.550, §121a.2, §121a.600 and §121a.601. (Reference Attachment 21).

In the determination as to agency responsibility to ensure a free appropriate public education, the Attorney General of South Carolina has ruled that unless the child is under the jurisdiction of the Department of Mental Retardation all handicapped children shall be the educational responsibility of the State Education Agency. However, the responsibility for the general supervision of all educational programs is vested in the Department of Education. Additionally, all handicapped children are to be accorded a free appropriate public education with non-handicapped children to the maximum extent appropriate. (Reference Attachments 22 and 23.)

A. DATA REQUIREMENTS

(Revise Table 4 to update the contents with information from the 1977-78 school year. Show the page number of the updated table).

(Columns (4), (5), (9), (10), (14), (15), (18), are required; other columns are optional).

Reference page 199 for Table 4.

ADDITIONAL INFORMATION

1. Problem areas in implementing least restrictive environment

There are no substantive problem areas encountered in making all alternative placements.

2. Nonacademic and extracurricular services and activities (121a.553)

The SEA insures that each handicapped child shall participate in nonacademic and extracurricular activities to the maximum extent appropriate. (Reference Attachment 22.)

3. Technical assistance and training related to least restrictive environment

Teachers and administrators in both LEA's and SOP's are provided technical assistance and training referenced to least restrictive environment. Specifically, fifty percent (50%) of the State's efforts under the RRC program are targeted toward the resolution of problems encountered in mainstreaming handicapped children both from a logistical and a quantitative aspect. Additionally, funds are made available to LEA's under Title IV-C to develop model programs for the orientation of regular educators toward the needs of handicapped children.

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TABLE 4. - LEAST RESTRICTIVE ENVIRONMENT (Include both 89-313 and 94-142)
(Placement and number of handicapped children in each setting (for school year 1977-1978*)

STATE SC DATE July 21, 1978

DISABILITY	REGULAR CLASS ** (A)				SEPARATE CLASS ** (B)				SEPARATE SCHOOL FACILITY ** (C)				OTHER EDUCATIONAL ENVIRONMENT ** (D)			
	TOTAL RECEIVING SPECIAL EDUCATION IN REGULAR CLASS BY AGE CLASSIFICATION			ADDITIONAL NEEDING PLACEMENT IN REGULAR CLASS	TOTAL RECEIVING SPECIAL EDUCATION IN SEPARATE CLASS BY AGE CLASSIFICATION			ADDITIONAL NEEDING PLACEMENT IN SEPARATE CLASS	TOTAL RECEIVING SPECIAL EDUCATION IN SEPARATE SCHOOL FACILITIES BY AGE CLASSIFICATION			ADDITIONAL NEEDING PLACEMENT IN SEPARATE SCHOOL FACILITIES	TOTAL RECEIVING SPECIAL EDUCATION IN OTHER EDUCATIONAL ENVIRONMENTS BY AGE CLASSIFICATION			ADDITIONAL NEEDING PLACEMENT IN OTHER EDUCATIONAL ENVIRONMENTS
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21	3 thru 5	6 thru 17	18 thru 21	3 thru 21
Mental Retardation	96	17736	797	41	188	10272	619	9	-	1231	205	3	-	-	-	-
Hard of Hearing	57	584	18	2	54	322	19	2	43	388	-	-	-	-	-	-
Deaf	4	-	-	-	7	6	1	-	-	-	-	1	-	-	-	-
Speech Impaired	5334	27015	159	31	91	21	17	-	-	-	-	-	-	-	-	-
Visually Handicapped	34	625	13	1	18	39	7	-	20	134	-	-	-	-	-	-
Seriously Emotionally Disturbed	67	3034	40	5	32	2403	27	2	-	90	-	1	-	-	-	4
Orthopedically Impaired	72	370	9	3	82	677	28	2	-	-	-	-	-	-	-	-
Health Impaired	102	-	-	-	10	19	3	-	-	37	-	-	-	215	-	-
Specific Learning Disability	69	4126	129	2	27	929	12	1	-	3	-	-	-	-	-	-
TOTAL	5835	53490	1165	85	509	14688	733	16	63	1883	205	5	-	215	-	4

NOTE: Data reported in columns (5), (9), (13), and (17), concerning needed services will be translated into facility projections by the Office of Education

**See attached definitions for Table 4

*Placement refers to the primary placement of the handicapped child as determined by the individualized Education Program.

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TABLE 5. –INSERVICE TRAINING FORM/ 1978-1979 school year)

AREA OF TRAINING (a)	NUMBER AND TYPES OF PERSONS TO RECEIVE INSERVICE TRAINING (b)																						
	REGULAR CLASS TEACHERS	SPECIAL CLASS TEACHERS	RESOURCE ROOM TEACHERS	ITINERANT/CONSULTING TEACHERS	HOME-HOSPITAL TEACHERS	PHYSICAL EDUCATORS	VOCATIONAL EDUCATORS	TEACHER AIDES	WORK-STUDY COORDINATORS	RECREATIONAL THERAPISTS	OCCUPATIONAL THERAPISTS	SPEECH PATHOLOGISTS	AUDIOLOGISTS	PSYCHOMETRISTS/EDUCATIONAL DIAGNOSTICIANS	PSYCHOLOGISTS	SCHOOL SOCIAL WORKERS	PARENTS OF HANDICAPPED CHILDREN	SURROGATES	VOLUNTEERS	HEARING OFFICERS	SUPERVISORS	ADMINISTRATORS	OTHER NON-INSTRUCTIONAL STAFF
Diagnostic Procedures														268	174								
Instructional Procedures		3K				500	53			50				268					100		100	250	70
Implementation of P.L. 94-142						500	53			50				268	174			10		20	100	250	70
– Individual Education Programs	30K	3K				500	53	600		50				268	174		82K	10		20	100	250	70
– Least Restrictive Environment	30K	3K					53	600						268	174		82K	10		20	100	250	70
– Procedural Safeguards	30K	3K					53	600						268	174		82K	10		20	100	250	70
– Use of Surrogates														268	174			10	100	20	100	250	
– Priorities – Served – Unserved	30K	3K					53	600						268	174		82K	10		20	100	250	70
– Non-Discriminatory Testing														268	174						100		
OTHER (Specify)																							

K means thousands.

IX. PROTECTION IN EVALUATION PROCEDURES (§121a.133)

A. PROCEDURES IN FY 1978 Plan.
(1) Indicate whether the evaluation procedures in your State's FY 1978 plan are incorporated by reference or whether the State has adopted new/additional procedures. (2) Provide the information in the body of your 1979 plan, or include it in the appendix. Give appendix number.

Although this portion was fully approved in the 1978 Amended Annual Program Plan, federal regulations changed the procedures for identification of learning disabled children. Additionally, federal regulations require that all handicapped children shall be re-evaluated at least every three (3) years. Therefore, this section of the 1979 Amended Annual Program Plan has been re-addressed to incorporate these changes.

General (§121a.530). The South Carolina Department of Education has established policies to insure that testing and evaluation procedures utilized in the evaluation and placement of handicapped pupils will be selected and administered so as not to be racially or culturally discriminatory. All information regarding the evaluation and placement of a pupil shall be interpreted for the parents/surrogates in the primary language of the home. (Reference: Attachment 3, Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped, Updated 1978).

In order to insure that each public agency establishes and implements procedures which meet the requirements of §121a.530-534, the State Education Agency has established procedures for Local Education Agency program audits to insure nondiscriminatory testing and placement. Detailed elaboration of this monitoring mechanism is subsumed under Section XV Annual Evaluation.

The following information is provided to further clarify the requirements of (§121a.530 (a)).

State Operated Programs shall follow the evaluation procedures set forth in *Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped* or shall ensure the State Superintendent of Education that they exceed or meet the minimal requirements for protection in evaluation procedures as set forth in §121a.530-534 (inclusive).

B. NEW REQUIREMENTS.

Include procedures in your State's 1979 plan which insure that the requirements in the following sections of the Part B Regulations are met:

(Section number)	(Items)
121a.532(e)	(Multidisciplinary team)
532(f)	(Assessment in all areas of suspected disability)
121a.533(a)(1)	(Information from a variety of sources)
533(a)(2)	(Information is documented and considered)
433(a)(4)	(Placement decision Re LRE)
121a.533(b)	(IEP must be developed)

The South Carolina State Board of Education promulgated regulations which ensure that the requirements of §121a.532(e)(f), §121a.533(a)(1), §121a.533(a)(2), §121a.433(a)(4), and §121a.533(b) are met. Definitions of handicapping conditions and procedures in the evaluation of these conditions are consistent with federal definitions set forth in Public Law 94-142. These procedures are clearly set forth in Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped, Updated 1978.

(Reference: Attachment 3)

XI. PARTICIPATION OF PRIVATE SCHOOL CHILDREN (§ 121a. 450-121a.460)

A. POLICIES & PROCEDURES IN 1978 PLAN.
(1) Indicate whether the policies and procedures in your State's 1978 plan (Items A & B on pages 19 & 20 of the BEH outline for APP-78) are incorporated by reference or whether the State has adopted new/additional procedures. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures for participation of private school children in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 99 - 101 .

B. NEW REQUIREMENTS
Include policies and procedures in your State's 1979 plan which insure that the requirements in the following sections of the Part B regulations are met:

Local Educational Agency Responsibility (§121a.452)

Section 121a.452 requires that "each local educational agency shall provide special education and related services designed to meet the needs of private school handicapped children residing in the jurisdiction of the agency." It further states that "each local educational agency shall provide private school handicapped children with genuine opportunities to participate in special education and related services consistent with the number of those children and their needs."

The State Education Agency (SEA) shall insure that children attending private schools, who meet the requirements to be diagnosed as "handicapped" in accordance with the evaluative criteria of the State Board of Education.
are provided genuine opportunities to participate in special education and related services provided by the Local Education Agency (LEA).

1) In order for a handicapped child participating in a private school under the conditions set forth in this part to receive special education/related services, an Individualized Education Plan (IEP) shall be promulgated by the LEA in which the child resides. Service delivery shall not transpire until the IEP is complete. The IEP shall be limited to those aspects of special education/related services to be provided or assured by the LEA. The IEP in this instance will not reflect the total program of the private school. Neither the LEA nor the SEA shall incur the cost for special education/related services not set forth in the IEP.

2) The LEA shall have the option as to the site of service delivery; however, the site shall be chosen in such a manner as to be the most economically feasible, yet provide an appropriate service delivery mechanism.

3) The SEA has established procedures for monitoring LEA's (Reference Audit Manual, Attachment #5) to insure compliance with the requirements in §121a.452.

Service Arrangements (§121a.454)

Section 121a.454 requires that "services to private school handicapped children may be provided through such arrangements as dual enrollment, educational radio and television, and the provision of mobile educational services and equipment". The SEA shall insure that such services are provided by the LEA to private school handicapped children; however, the LEA shall have the option of determining the mode of service delivery to private school handicapped children.

The State Education Agency shall insure that programs and projects which are conducted in public facilities, and which involve joint participation by handicapped children enrolled in public and private schools, will not include classes that are separated on the basis of school enrollment or children's religious affiliation as required in §121a.458.

Differences in Services to Private School Handicapped Children (§121a.455)

Section 121a.455 requires that "a local educational agency may provide special education and related services to private school handicapped children which are different from the special education and related services it provides to public school children, if:

(a) The differences are necessary to meet the special needs of the private school handicapped children, and

(b) The special education and related services are comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equal importance."

The SEA shall insure that special education and/or related services which are different from services that the LEA provides to public school children may be provided as warranted to private school handicapped children. Determination for the necessity of providing different services shall be vested in the LEA - provided that such determinations are based on identified pupil needs and are not in conflict with the provisions of Public Law 94-142.

Funds and Property Not To Benefit Private School (§121a.459)

Section 121a.459 states that "funds provided under Part B of the Act and property derived from those funds may not inure the benefit of any private school."

The SEA shall insure that any funds received under Public Law 94-142 by the LEA to assist in the education of handicapped children enrolled in private schools shall not be of benefit to the private school. Funds may be utilized to the educational benefit of handicapped children receiving special education and related services through the LEA. Title to any property payed for under the Act shall remain with the public agency.

The State Education Agency shall require that Local Education Agencies maintain records of equipment purchased with EHA-B funds and shall insure that the equipment is utilized solely for the purposes of the program to benefit handicapped pupils. Title to and administrative control over such equipment shall be maintained by the SEA/LEA, who will also be responsible for monitoring its use, availability and removal as required in §121a.457.

The State Education Agency shall prohibit the utilization of EHA-B funds for the construction of private school facilities and shall insure that any equipment purchased with EHA-B funds (other than mobile or portable equipment) shall not be utilized on private school premises.

Existing Level of Instruction(§121a.460)

Section 121a.460 requires that "provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools." The SEA shall prohibit funds or property under the Act from supporting the existing level of instruction in private schools. Local Education Agencies may provide access to their special education programs funded under Public Law 94-142 for private school students through dual enrollment, but are not obligated to expend monies for private school special education programs. If the LEA admits a private school student into a program funded by Public Law 94-142, this must not be supplanting the effort of the private school.

The State Education Agency shall insure that public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by handicapped children for whose needs those services were designed and only when those services are not normally provided for the payment of salaries of private school personnel except for those services performed outside their duty hours and under public supervision and control. Nothing in the foregoing, however, shall be construed as a prohibitor of the use of EHA-B funds for tuition when it is necessary for a handicapped child to be placed in a private school by the LEA/SEA as the only viable alternative to receive a free appropriate public education and such placements are in accordance with policies set forth in this Plan and SBE regulations.

The information found below revises page 98.

Existing Level of Instruction (§121a.460)

Section 121a.460 requires that "provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools." The SEA shall prohibit funds or property under the Act from supporting the existing level of instruction in private schools. Local Education Agencies may provide access to their special education programs funded under Public Law 94-142 for private school students through dual enrollment, but are not obligated to expend monies for private school special education programs. If the LEA admits a private school student into a program funded by Public Law 94-142, this must not be supplanting the effort of the private school.

The State Education Agency shall insure that public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by handicapped children for whose needs those services were designed and only when those services are not normally provided by the private school. However, in no event shall EHA-B funds be utilized for the payment of salaries of private school personnel except for those services performed outside their duty hours and under public supervision and control. Nothing in the foregoing, however, shall be construed as a prohibitor of the use of EHA-B funds for tuition when it is necessary for a handicapped child to be placed in a private school by the LEA/SEA as the only viable alternative to receive a free appropriate public education and such placements are in accordance with policies set forth in this Plan and SBE regulations.

The following information relative to the LEA maintaining administrative control and direction over services provided to children enrolled in private schools is offered as clarification.

When handicapped children in private schools (not placed by SEA/LEA) are receiving special education and/or related services from an LEA, the SEA ensures that administrative and fiscal control of the programs/services rendered by the public school remain with the LEA. Therefore, all SEA procedures pertaining to compliance requirements are applicable in the instance described above.

XI. PARTICIPATION OF PRIVATE SCHOOL CHILDREN (613) (a) (4) (A))

Section 613 (a) (4) (A) requires that the Annual Program Plan "set forth policies and procedures to assure....that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under (Part B) by providing for such children special education and related services."

A. Present a copy or draft of the policy your State will utilize to implement the requirement that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for participation of those children in the programs assisted or carried out under Part B by providing for those children special education and related services.

1. It is the policy of the South Carolina Department of Education that handicapped children enrolled in private schools are eligible for special education and/or related services provided by the LEA only if those pupils are identified and evaluated in accordance with State Board of Education standards. Standards/procedures for evaluating handicapped children receiving public education are outlined in the Procedures for Survey, Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped approved by the State Board of Education on March 12, 1976 (reference Attachment #3).

2. The SEA shall require that LEA's provide written assurances (Reference LEA Application, Attachment #4) to insure compliance with the requirements in Section 613 (a).

B. Describe the procedures the State Education Agency will undertake in implementing the Participation of Private School Children policy.

1. The following procedures will be utilized by the SEA in order to implement the Participation of Private School Children policy:

   a. LEA's are required by South Carolina law to actively locate all handicapped children, including those enrolled in private schools, in the geographic area comprising the school district. Article 4.1 of the South Carolina Code of Laws of 1972, as amended, states that "each school district individually or in combination with other school districts shall conduct a survey of the educational needs of all handicapped children within its jurisdiction."

   b. Standards/procedures for determining the number and types of handicapped children to participate in various types of educational programs/related services in public schools are outlined in the Procedures for Survey, Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped approved by the State Board of Education on March 12, 1976. In order to insure that these child identification and evaluation procedures are properly implemented, the SEA requires that each LEA's Public Law 94-142 application specify the mechanisms employed by the district to locate and identify all handicapped children within the school district's geographic jurisdiction.

c. The Office of Programs for the Handicapped, South Carolina Department of Education, coordinates an inter-agency referral system known as CATCH (Census of Adolescents and Tracking of Children with Handicaps). It is through this mechanism that children identified as handicapped or suspected as handicapped can be referred to appropriate school and other agency personnel for further evaluation and educational placement. This mechanism enables private and public educational agencies to refer unserved handicapped students to the State Education Agency for assistance in obtaining an appropriate educational placement in public or private agencies.

2. The SEA has established procedures for monitoring LEA's and other appropriate private and state agencies. Detailed elaboration of this monitoring mechanism is subsumed under Section XV Annual Evaluation.

The following information relative to the procedures for determining the number and types of private school handicapped children who will participate in special programs/related services provided by the LEA has been clarified as follows.

The SEA requires that each LEA determine the number and types of handicapped children (including those enrolled in private schools) who will participate in LEA programs in accordance with the Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Handicapped (Attachment #3). All handicapped children attending private schools who meet the requirements to be diagnosed as "handicapped" in accordance with the above regulations are eligible to participate in LEA programs. State Board of Education regulations require that pupils be "staffed" by a group of persons knowledgeable as to each pupil's needs. It is also required that the child's parent must be invited to the staffing conference. A staffing committee for a hearing handicapped pupil, for example, must include the following members: 1) psychologist, 2) person obtaining child's social history, 3) person presenting child's medical records and 4) LEA representative. Additional persons may include the person initiating the referral, the special teacher who may receive the pupil, guidance counselors or others who may be able to offer pertinent information relative to the child. Please refer to Attachment #3 (pages 5-8, 20, 27, 33, 37, 43-44, 49 and 59) for a description of the staffing committee composition for each area of handicapping condition.

XII. PLACEMENT IN PRIVATE SCHOOLS (§121a.400-121a.403)

(1) Indicate whether the policies and procedures in your State's 1978 plan are incorporated by reference and/or whether the State has adopted new/additional procedures. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures for placement in private schools in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 103-110.

XII. PLACEMENT IN PRIVATE SCHOOLS (613) (a) (4) (B))

Section 613 (a) (4) (B) states that the Annual Program Plan must "set forth policies and procedures to assure...that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by Part B) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local education agency as a means of carrying out the requirements of (Part B) or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State Education Agency shall determine whether such schools and facilities meet standards that apply to State and local education agencies and that children so served have all the rights they would have if served by such agencies."

A. Present a copy or draft of the policy your State will use to meet the requirement that, if handicapped children are placed in or referred to private schools or facilities by the State or local education agencies as a means of carrying out the statutory requirements, those children will be provided special education and related services (a) in conformance with an individual education program, (b) at no cost to parents, and (c) which meet State education standards.

The State Department of Education shall have the responsibility to insure that educational programs and related services, when necessary, are provided to handicapped children in private schools at no cost to their parents - provided that such children are placed in private schools by the LEA/SEA. When it is necessary to accord special education and related services in programs other than public schools, such placements shall not transpire until it has been determined that the child cannot be appropriately served by another governmental agency of South Carolina. After determination has been made that neither the public schools nor another governmental agency of the state can adequately provide these services, then private programs within the state become the third alternative of choice. If such programs are still inadequate, then out of state private programs may be approved. Clearly, the intent of this policy is to insure economic efficiency to the maximal extent possible.

When it is clearly not feasible to accord educational opportunity to handicapped children in a public school program,the LEA may contract with other agencies or organizations, public or private, within or outside South Carolina, provided that proper application has been made by the LEA and approved by the State Department of Education. Children enrolled in such programs shall have all the rights they would have if served by the LEA and the agency or organization must meet all the standards applicable to the LEA/SEA.

1. Upon submission by the LEA of a properly completed application form and any supplemental information that may be required, the Director, Office of Programs for the Handicapped, State Department of Education may approve said application. Approval in this instance shall be only for those applications where it is clearly impracticable to provide special education and related services in a public school setting.
2. Consistent with statutes of the South Carolina Code of Laws, 1972 (Article 4.1, as amended) the LEA pays no more than one (1) pupil's portion of the local expense incurred in operating programs for the handicapped. The SEA pays no more than one (1) pupil's portion of the state funds which would be available if the pupil were enrolled in a program in the LEA. Monies available under Public Law 94-142 may be utilized to pay the remaining (if any) portion of the private school costs, except that an amount equal

to the average per pupil expenditure in the State must be furnished from other than Federal sources. Payment for remaining unpaid balances shall be paid from funds under Public Law 94-142 and shall be shared equally by the SEA and the LEA.

3. In those instances where applications or other factors are disputatious between the SEA and LEA/IEU, the Director, Office of Programs for the Handicapped, State Department of Education, shall refer such applications, along with all supporting data to the appropriate sub-committee of the Department's Advisory Council on the Education of the Handicapped.
4. The aforementioned sub-committee shall consist of three (3) persons, one of whom shall serve as chairperson. Representatives of the LEA and SEA may be present along with other knowledgeable persons the sub-committee may require in making a recommendation predicated on the ability of service delivery compatible with the IEP. Recommendations shall be made in writing to the State Superintendent of Education through the Deputy Superintendent, Division of Instruction, State Department of Education. The Superintendent shall render a final decision.
5. If an appropriate program is offered to a handicapped child in the LEA/IEU and the parent/surrogate waives the opportunity in favor of a private school/facility

placement, then the LEA/SEA has no further financial responsibility for the child's education, provided procedural "due process" has been honored. The denegation of financial responsibility will be only for the time the child is enrolled in a private school setting.

6. In those instances where agreement between the LEA and parent/surrogate for private school placement cannot be reached, the following arbitration procedure will be operative:

   a. The parent or LEA shall have the right to request a due process hearing at the local level.

   b. The decision of the local hearing officer shall be binding on all parties - subject only to appeal to the SEA.

   c. Within ten (10) days after a decision by the hearing officer, a request for an impartial review of the hearing may be initiated by the parent/surrogate or LEA to the SEA, Office of Programs for the Handicapped, State Department of Education (SDE). The SDE shall train three (3) members of the State Advisory Committee for the Handicapped in the procedures for conducting an impartial review. When a request for an impartial review of the hearing is received, one of the three advisory committee members shall be selected to serve as a reviewing official. The reviewing official shall:

      1. Examine the entire hearing record.

      2. Insure that the procedures at the hearing were consistent with the requirements of due process.

      3. Afford the parties an opportunity for oral argument.

4. Make an independent decision on completion of the review.

d. The decision of the reviewing official shall be binding to all parties - subject only to judicial appeal.

7. Whenever handicapped children are placed in private schools by the SEA/LEA, such private schools must be in compliance with the standards of the SEA/LEA. Private schools located within South Carolina shall meet standards that apply to the SEA/LEA in South Carolina. When the SEA/LEA places a handicapped child in a private school in another State, that school must meet the standards that apply to the SEA/LEA of the State in which the private school is located.

Minimal standards for all children including the handicapped receiving public education in South Carolina are outlined in the Defined Minimum Program for South Carolina School Districts (DMP) approved by the SBE on February 9, 1973. Specific portions of the DMP relate directly and uniquely to the insurance and propriety of the establishment and maintenance of programs for handicapped children in LEA's. It is this mechanism that insures comparability among all programs operated by LEA's. Private schools located within South Carolina must be in comformity with the standards set forth in the DMP. For purposes of insuring that stated standards are met, the Office of

Programs for the Handicapped serves in a consultative basis to the Accreditation Section, Office of General Education, which has prime responsibility within the SEA for insuring that compliance with the standards set forth in the DMP are operative.

In order to insure that such handicapped children placed in private schools have all the rights they would have if educated in a public school, the SEA shall require that the private school officials sign a contractual agreement with the LEA/SEA insuring compliance with the following requirements:

a. That the handicapped child be evaluated in accordance with the Procedures for Survey, Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped approved by the State Board of Education on March 12, 1976.

b. That the handicapped child be accorded all the rights afforded by P.L. 94-142 including the right to confidentiality, procedural safeguards and non-discriminatory assessment.

c. That the local education agency shall have responsibility for, but assisted by the school in the development of a written individualized education program and that the individualized education program will be revised at least annually.

d. That the handicapped child be educated in the least restrictive environment appropriate to implement the child's individualized education program without reducing the quality of services required.

8. Upon notification by the LEA of their intent to place a handicapped child in a private school, the SEA shall provide copies of the following documents to the LEA for dissemination to the private school:
    1. *Defined Minimum Program for South Carolina School Districts*
    2. *Procedures for Survey, Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped*.
    3. *SEA Policies/Standards*: Confidentiality, Procedural Safeguards, Individualized Education Program and Least Restrictive Environment
9. Private schools affected by these standards shall be afforded an opportunity to participate in the development and revision of standards relating to special education. On November 9 and 10, 1976, the Office of Programs for the Handicapped, State Department of Education sponsored three (3) regional input team meetings in Florence, Spartanburg, and Orangeburg, South Carolina. During these two (2) day meetings, representatives from a variety of private and public agencies/organizations and other persons were given an opportunity to provide extensive input in the development of the standards and procedures relative to the implementation of P. L. 94-142. The SEA will continue to work cooperatively with private school

officials to facilitate communication relative to the development/revision of SEA standards.

B. Include a description of monitoring activities that will be undertaken to assure the implementation of the Placement in Private Schools policy.

The SEA shall monitor private schools and LEA's in order to insure the effective implementation of the Placement in Private Schools policy. Detailed elaboration of this monitoring mechanism is subsumed under Section XV Annual Evaluation.

XIII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN (§121a.141)

(1) Indicate whether the policies and procedures in your state's 1978 plan are incorporated by reference and/or whether the state has adopted new/additional procedures. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures for recovery of funds for misclassified children in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 112 - 124.

XIII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILD (613(a)(5))

Section 613(a)(5) of the Act states that the State Plan must "set forth policies and procedures which assure that the State shall seek to recover any funds made available under (Part B) for services to any child who is determined to be erroneously classified as eligible to be counted (under the Act)."

Present a copy or draft of the policy your State will utilize to assure that the State seeks to recover any funds made available under Part B of the Act for services to any child who is determined to be erroneously classified as eligible to be counted.

The SEA shall seek to recover funds, or portions thereof, as appropriate, of entitlements under Part B of the Act for:

Children who have been erroneously classified as handicapped and included in the count mechanism of Section 613 (a)(5) of the Act. Erroneous classification shall mean that the child has not been evaluated and placed in programs for the handicapped in accordance with State Board of Education regulations including procedural safeguards.

Describe the procedure the State Education Agency will undertake in implementing the Recovery of Funds policy.

The SEA will utilize the following procedures for the retention of funds:

A. Of the total allocation under Part B of the Act, the SEA shall retain a sum not to exceed twenty-five (25) per centum.

1. An amount equal to five (5) percent of the aggregate allocated to the SEA, or $200,000, whichever is

greater, shall be utilized by the SEA in administration of § 612 and § 613 of the Act. Either of the above sums, however, shall be subtracted from the twenty-five (25) percent retained by SEA. § 611 (2)(1)(A)

2. Seventy-five (75) per centum of the aggregate allocated to the SEA shall be made available to Local Education Agencies (LEA's)/Intermediate Education Units (IEU's) during the fiscal year of the allocation provided that the requirements of § 614 and § 615 are met. § 611 (c)(B)

PROCEDURES FOR DETERMINATION OF ENTITLEMENTS TO LEA/IEU's

B. Seventy-five (75) percent of the aggregate allocation shall, during any fiscal year in which the SEA receives an allocation under Part B of the Act, be made available to SEA/IEU's in accordance with the following:

1. The amount available, seventy-five (75) per centum of the aggregate allocation, shall be divided by the average number of handicapped children receiving special education and related services as reported by LEA/IEU's on October 1 and February 1 of the fiscal year immediately preceding the fiscal year for which the entitlement is made. § 611 (3)
2. The quotient shall yield the amount generated per pupil I. (AGP-I)
3. The amount of the entitlement to any LEA/IEU shall be the product of the amount generated per pupil

multiplied by the number set forth in B (1).

4. Funds under the Act shall not be made available for handicapped children eligible for assistance under § 103 (a)(5) of Title I of the Elementary and Secondary Education Act of 1965.

C. Schedule for Entitlements to LEA/IEU's

1. The SEA shall approve appropriate applications for funds under the Act only after receipt by the SEA of the Commissioner's approval of the State Plan. § 614 (b)(1)

2. The SEA shall approve the application of an LEA/IEU provided the SEA determines that such applications meet the requirements of § 614 (a) of the Act and provide satisfactory assurance that procedural safeguards are established and maintained in accordance with § 612 (5)(B), § 612 (5)(C), and § 615.

3. The SEA shall make entitlements to LEA/IEU's having approved applications within sixty (60) days following receipt of notification of approval of the State Plan by the Commissioner and receipt of the grant document pursuant to said approval.

4. If the application submitted to the SEA is not approvable the SEA shall permit the applicant to make necessary changes within forty (40) calendar days. Should the amended application still be disapproved, applicants will be permitted an additional thirty (30) calendar days to submit another amended application. Should

this amendment be unapprovable, a hearing may transpire. In no case shall the SEA reserve the entitlement longer than one hundred fifty (150) days from the date of approval of the State Plan by the Commissioner, United States Office of Education. Any monies thus forfeited shall be added to recovered funds.

D. Procedures for Utilization of Funds

1. Funds retained by the SEA (A)(1) (of these policies) shall be utilized by the SEA in the administration of the Act as set forth in § 612 and § 613.
2. Funds retained by the SEA, exclusive of the administrative set aside, shall be utilized by the SEA to provide payment for direct and support services to handicapped children consistent with the provisions and priorities set forth in § 612 (3) and under the authority of § 611 (1)(b) of the Act. The amount of these funds shall be determined by the following process:
   (a) Five (5) percent multiplied by the aggregate allocation to the state, or the sum of $200,000, whichever is greater, shall be subtracted from twenty-five (25) percent of the aggregate.
   (b) The balance shall be the amount retained by the state to provide support and direct services to handicapped children. Funds retained and utilized by the state for payment in the provision of direct services shall be matched on a program basis by the state from funds other than Federal funds.

3. Priority expenditures for monies retained by the SEA for the provision of direct and support services shall be as follows:

   (a) PRIORITY ONE, DIRECT SERVICES

   Handicapped children, ages six (6) to twenty-one (21) years, who must receive special education and related services in other than public schools and would be otherwise unserved shall receive first priority under this category of funds. Consistent with South Carolina statutes, Article 4.1, 1972 Code of Laws, as amended, the only acceptable justification for such placements shall be for insufficient numbers of such children to accord them an appropriate program. Prior approval for such placements must be obtained by the LEA from the SEA. The formula for payment for special education and related services is:

   1. The LEA may not expend an amount exceeding one similar pupil's share of local funds.
   2. The SEA may not expend more than one similar pupil's share of state funds. Should the cost of special education and related services exceed the combined sum of (1) and (2), the balance shall be paid with funds obtained under the Act in accordance with the following procedures:

3. The LEA shall pay fifty (50) percent of the balance (obtained after subtracting the combined local and state payments from the total cost of special education and related services) from its entitlement under Part B of the Act.

4. The SEA shall pay fifty (50) percent of the balance from retained funds provided application for enrollment in other than public schools has been approved by the SEA no later than one hundred fifty (150) days following the issuance of an entitlement under the Act to the LEA by the SEA. The institution delivering special education and related services must do so in accordance with § 613 (4)(B)(ii).

(b) PRIORITY TWO - SUPPORT SERVICES

Priority two of the SEA shall be payment for the provision of support services with emphasis on support services for severely handicapped children. § 612 (3)

4. Utilization of Entitlements by LEA/IEU

The LEA's may expend monies on:

(a) A free appropriate public education to all handicapped children, first with respect to handicapped children not receiving an education, and second with respect to handicapped children within each disability, with the most severe handicaps who are receiving an inadequate education.

(b) Excess costs directly attributable to programs for educating handicapped children.

E. Recovery of Funds Under the Act

The SEA shall seek to recover funds, or portions thereof, as appropriate, of entitlements under Part B of the Act for the following reasons:

1. Children have been erroneously classified as handicapped and included in the count mechanism B(1) of these policies and § 613 (a)(5) of the Act. Erroneous classification shall mean that the child has not been evaluated and placed in programs for the handicapped in accordance with State Board of Education regulations including procedural safeguards.
2. When a LEA/IEU is adequately providing a free and appropriate education to all handicapped children residing in its jurisdiction, the SEA shall discontinue entitlements under the Act and seek to recover entitlements that may have been granted after the date that it was determined that full and appropriate service goals were attained.
3. Whenever the SEA determines that a LEA is unable, unwilling to establish and maintain a program of free and appropriate education which meets the requirements of § 612 (a) of the Act; is unable or

unwilling to be consolidated (beginning FY '79 and every year thereafter) with other LEA's in accordance with the Act; or has some children who can better be served by a regional center, the SEA shall seek to recover appropriate portions of any entitlement that may have been granted. Should the SEA find it necessary to use payments for children in those instances so described, the LEA, under South Carolina statutes, is not absolved of responsibility for providing free and appropriate programs of special education and related services for such children.

F. Procedures for Recovery of Funds

1. Determination of children erroneously classified as handicapped shall be made through the following:
   - (a) Voluntary admission by the LEA/IEU. Such admissions shall be signed by the Chief Administrative Office of the LEA/IEU.
   - (b) Product of audits conducted by the SEA.
   - (c) Results of complaints of individuals, agencies, or other parties and substantiated by SEA investigation. Final determination shall be by the State Superintendent of Education.
2. LEA has achieved full service goal. Determination will be made by review and approval of District Plan by the Director, Office of Programs for the Handicapped, of the SEA which shall include, but not be limited to data, child find activities, etc.

3. Unable or unwilling to consolidate with another district (beginning FY '79 and every year thereafter) or cannot adequately serve some few children. Determination shall be made by SEA. Such reviews shall include definitive written reports by the Chief Administrative Officer of the LEA detailing the circumstances, presenting statements of efforts made to serve the children of discussion, and statements of what the district shall accord such children towards a free and appropriate education. The persons responsible in the SEA for the education of handicapped children shall make final determination of a LEA ability or inability to serve the children described herein.
4. Upon determination of the propriety for recovery of funds under the Act, in accordance with these policies, the following procedures shall apply:
    (a) Further payment shall be discontinued to the LEA/IEU in the amount of one pupil's portion under the entitlement multiplied by the number of pupils specified in these policies (F (1)(2)(3)) an amount proportionate to the length of time remaining in the school year of the fiscal year of entitlement.
    (b) The State Superintendent of Education shall require reimbursement to the SEA an amount equal to the sum of one pupil's portion under the entitlement based upon policies set forth under

(1 (a)(b)(c) multiplied times the number of children specified in these policies (F (1)(2)(3) for that portion of the fiscal year and during which payments have been made to LEA/IEU. Should reimbursement not be made to the SEA by the end of the fiscal year of the entitlement, the amount of the reimbursement shall be deducted from the next fiscal year for which the LEA/IEU received an approved application.

G. Procedures for Reallocation

1. LEA/IEU's shall notify the SEA within one hundred fifty (150) calendar days following the date of issuance of entitlements to LEA/IEU's by the SEA of the amount of the entitlement that shall not be expended by the LEA/IEU by June 30, of the year of entitlement. The only acceptable reason for not expending all of the entitlement shall be the attainment of full service goals or extenuating circumstances.
2. The sum of these recovered monies shall be added to any other recovered monies under the entitlement program provided recovery is made within one hundred sixty (160) days following the issuance of entitlements by the SEA.
3. From the aggregate of monies recovered above (2), the amount necessary to satisfy Priority One of Reallocation shall be subtracted.

4. Upon satisfaction of Priority One of Reallocation, the balance of recouped funds shall be divided by the average number of handicapped children receiving special education and related services on October 1 and February 1 of the preceding fiscal year of these LEA/IEU's not returning unexpended funds. Children determined to be erroneously classified or otherwise ineligible to be counted shall be subtracted from the previous fiscal year's count of the LEA/IEU concerned.
5. The quotient shall yield the amount generated per pupil (AGP-III).
6. The amount of AGP-III shall be multiplied by the LEA/IEU count (4, above) to determine the amount of each LEA/IEU reallocation. Reallocation shall be made only to those LEA/IEU's not returning funds under the entitlement at the one hundred fifty (150) day notification (G-1 of these policies).
7. Reallocation under Reallocation Priority One shall be made by the SEA within one hundred eighty (180) days following the date of issuance of the original entitlement during any fiscal year.
8. Reallocation under Reallocation Priority Two shall be within two hundred (200) days following the issuance of the original entitlement by the SEA during any fiscal year.

9. No LEA/IEU shall receive reallocated funds which, when added to the amount available to it under § 612 (b) of the Act exceeds its allotment, General Provisions (b)(1).
10. All monies recovered under the entitlement program within one hundred sixty (160) days following the date of issuance of entitlements by the SEA during any fiscal year shall be reallocated to LEA/IEU consistent with these policies. Recovered funds after this time shall revert, provided the date of "carry-over" of these funds has expired.

H. Reallocation Priorities - Priority One

1. A determination shall be made by the SEA, based upon reports by the LEA, if any portion of the cost of special education and related services accorded to handicapped children in other than public schools and placement thereof was by the LEA approved by the SEA and who would otherwise be unserved, would not be completely covered by the policies (D (3)(a)(1)(2)(3)(4) in addition to other state or federal monies or private funds (gifts and/or donations).
2. Should the determination reveal that any portions of the cost of special education and related services would have to be borne by parents or guardians, the total number of such occurances shall be divided into the aggregate of monies recovered under the entitlement program. The quotient shall yield an

amount generated per pupil II (AGP-II). Reallocation shall be made under Reallocation Priority I only to those LEA's who possess handicapped children within their jurisdiction and meet the criteria of (H (1) of these policies. Should the amount of unpaid balance be less than the amount of AGP-II, the amount paid for the purposes stated would be the lesser of the two. Conversely, should the aggregate of unpaid balances be more than the amount available for the total of funds under AGP-I[illegible] each pupil for the purposes described herein sha[illegible]ceive a prorata share.

I. Reallocation Priorities - Priority Two

Monies reallocated to LEA/IEU under Reallocation Priority II shall be for those purposes set forth in the Act under § 614 (a).

XIV. HEARING ON LEA APPLICATION (§121a.141)

(1) Indicate whether the policies and procedures in your state's 1978 plan are incorporated by reference and/or whether the state has adopted new/additional procedures. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures for hearings on Local Education Agency applications in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 126 - 141.

XIV. HEARING ON LEA APPLICATION (613(a)(8))

Section 613(a)(8) states that the Annual Program Plan must "provide procedures to assure that final action with respect to any application submitted by a local education agency or an intermediate education unit shall not be taken without first affording the local education agency or intermediate education unit involved reasonable notice and opportunity for a hearing."

A. Describe the procedures your State will use to implement the requirement that final action with respect to any application submitted by a local education agency is not taken without first affording the local education agency involved reasonable notice and opportunity for a hearing. (121a.45)

1. Process for Approval

The person within the SEA responsible for the education of the handicapped shall approve/disapprove, in writing, the application(s) of an LEA/IEU within fifteen (15) working days from the date of its receipt by the SEA, provided the Commissioner, United States Office of Education (USOE), has approved the State Plan. Applications submitted prior to the Commissioner's approval of the State Plan shall be acted upon within fifteen (15) working days by the SEA following the receipt of documentation that the Commissioner has approved the State Plan.

"Approval" may take either of two forms:

(a) "approved as submitted" OR

(b) "substantially approvable."

The latter, "substantially approvable," means that the application(s) is essentially correct and entitlements may flow to the Applicant(s), provided that

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the Chief Administrative Officer of the LEA/IEU provides a letter to the SEA stating that noted deficiencies will be corrected immediately. A "substantially approvable" response to the Applicant(s) is intended for very minor deficiencies only. In no way is such a response intended as a means of circumventing compliance requirements of the Act.

"Disapproval" of an application(s) shall be for purposes of ineligibility, non-compliance with the Act, or application(s) not received by the SEA within one hundred fifty (150) calendar days from the date of the issuance of any entitlement under the Act by the SEA within the Fiscal Year (FY) of the entitlement.

2. Process for Disapproval of Application(s)

All disapproved application(s), including the original and subsequent amended applications, shall specify the reasons why the application(s) cannot be approved. Initial application(s) shall be acted upon by the SEA within fifteen (15) working days of receipt of the initial application, provided that the Commissioner, USOE, has approved the State Plan.

When an application(s) is disapproved, the Applicant(s) may submit an amended application(s) addressing the elements cited in the SEA's response to the initial application(s). Amended application(s) must be submitted to the SEA within forty (40) calendar days from the date of the initial disapproval. The SEA shall respond to the first amended application(s) within fifteen (15) working days of receipt by the SEA of the amended application(s).

Should the first amended application(s) be disapproved, the Applicant(s) shall be permitted thirty (30) calendar days from the date of such disapproval to submit a second amended application(s). The SEA shall be permitted fifteen (15) working days to respond to the second amended application(s).

Should the second amended application(s) be disapproved, the Applicant(s) forfeits any monies to which he is entitled under the Act for the FY of the entitlement. Prior to forfeiture, the Applicant(s) may request a hearing, provided a written request for such hearing is made to the SEA within fifteen (15) working days from the date of disapproval of the second amended application(s).

Failure of the LEA/IEU to submit, or resubmit, application(s) within the times herein specified shall result in forfeiture of all monies to which the Applicant would have been entitled under the Act. Such forfeiture shall occur only after a hearing or opportunity for a hearing has been accorded to the LEA/IEU and subsequent decision by the State Superintendent of Education. Failure to participate in P.L. 94-142 does not exempt the SEA or the LEA from compliance requirements of P.L. 93-112, Section 504.

3. Hearing Procedures
   a. Within the time specified, the Applicant(s) must request a hearing by the SEA.
   b. Within ten (10) working days from the date of the request for a hearing, the SEA shall apprise, in writing, the Applicant(s) of the site, date, and time of the hearing.
   c. The hearing shall transpire within two (2) weeks from the date of notification.
   d. The Hearing Board shall be constituted of the following persons:
      (1) two (2) persons of the SEA who were not involved in the review of the disapproval of the application(s). These persons shall be appointed annually by the State Superintendent of Education.
      (2) two (2) members of the State Department of Education's Advisory Council on the Education of the Handicapped appointed by the Chairperson of the Council.

e. Witnesses/Attorneys may be present and testify for the SEA or Applicant(s).

f. Minutes shall be kept on all proceedings of the hearing.

g. The Hearing Board shall elect its chairperson, who, having reviewed all pertinent evidence presented, shall make a formal recommendation to the State Superintendent of Education within ten (10) working days following the hearing. The State Superintendent of Education will make a decision binding on all parties.

B. The SEA's criteria for approval of LEA's application. Any application for funds under this act shall be disapproved for failure to comply substantially with the following criteria.

(See charts on the following pages).

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
a. provide that all children residing within the jurisdiction of the local educational agency or intermediate educational unit who are handicapped and in need of special education and related services will be identified, located, and evaluated.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within the Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
b. provide for a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving special education and related services.	Signature of unit's Chief Administrative Officer of unmodified assurance statement.	Contained with "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
c. establish policies and procedures to assure the confidentiality of personally identifiable information with regard to handicapped children.	Signature of units Chief Administrative Officer of unmodified assurance statement.	Contained with "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
d. establish a goal of providing full educational opportunities to all handicapped children through the assurance of a comprehensive system of personnel development.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
e. establish a first priority that shall include handicapped children not receiving an education, and secondly, the most severely handicapped children in any category who are receiving an inadequate education.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
f. insure that the parents or guardians of such children are invited to participate in special education placement and program planning.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement.
g. provide that handicapped children participate in special education and related services and regular educational programs with nonhandicapped children to the extent that it is the handicapped child's best interest.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
h. establish a detailed timetable to accomplish the goal of providing full educational services and develop detailed planning to provide a description of the kind and number of personnel, facilities, and services necessary to meet said goal.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
i. provide satisfactory assurance that control of funds provided under this act, and title to property derived from such funds shall be in a public agency for the uses and purposes of this act.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
j. provide that a public agency will administer such funds and property.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
k. provide that such funds shall be used to pay only the excess costs directly attributable to the education of handicapped children.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Sihgle/Consolidated Application for P.L. 94-142 Entitlement."
l. provide that such funds shall be used to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case supplant State and local funds.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
m. provide that State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which are at least comparable to services in areas of such jurisdiction not receiving funds under this act.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
n. provide for furnishing such information as is necessary to enable the State educational agency to perform its duties under this act, including information relating to the educational achievement of handicapped children participating in programs carried out under the act.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within the Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
o. establish provisions for keeping such records, and for affording access to such records as the State educational agency finds necessary to assure the correctness and verification of information required under this act.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within the Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
p. provide for making the application and all pertinent documents related to such application available to parents, guardians, and the general public, and provide that all evaluations and reports shall be public information.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within the Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
q. provide assurances that the local educational agency or intermediate educational unit will establish, or revise, an individualized education program for each handicapped child at least annually. The individualized education program shall include (1) present level of educational performance, (2) annual goals and short term objectives, (3) specific services to be provided and amount of time required, (4) starting date and expected duration of service, (5) evaluation criteria, (6) provision for annual review.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
r. provide satisfactory assurances that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with provisions of this act.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."
s. provide assurance that funds under this act will not be commingled with State and local funds.	Signature of unit's Chief Administrative Officer to unmodified assurance statement.	Contained within "Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

Requirements	Criteria for Approval	
	As Evidenced By:	Method of Documentation:
t. provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall meet eligibility requirements for assistance under this act.	Signature of unit's Chief Administrative Officer of unmodified assurance statement.	Contained within the Terms and Conditions Section of the Single/Consolidated Application for P.L. 94-142 Entitlement."

C. Criteria for Determining Eligibility of Single Districts For Consolidated Funding Under P.L. 94-142

Single school districts or Intermediate Educational Units (IEU's) unable to generate an entitlement of $7,500 beginning in FY '79 and every year thereafter, and which are of insufficient size and scope as determined by the State Department of Education, are ineligible to receive funding under P.L. 94-142. However, under the provisions of § 611(c)(4)(A) and § 614(c)(1) of P.L. 94-142, Local Educational Agencies (LEA's) and IEU's may become eligible for funding by submitting consolidated applications to the State Department of Education, Office of Programs for the Handicapped.

All LEA's and IEU's are mandated by both federal and state statutes to serve all handicapped children resident within their district (provided that the three (3) to five (5) and eighteen (18) to twenty-one (21) years of age groups are not excluded by state law or court decrees) whether or not they choose to make application for funding under P.L. 94-142.

Each local district entitlement shall be determined by multiplying the average number of handicapped children (as reported by October 1 and February 1 count, previous year) by the per pupil share as determined from the Federal allocation to South Carolina. This allocation shall be contingent upon the annual appropriation by Congress.

Owing to demographic and geographic characteristics of any given district, varying resources (both human and non-human) and other elements unique to any given district, the determination of sufficient scope will be made by the State Department of Education. Therefore, a narrative must accompany the application detailing the collective scope of the districts participating in the consolidation.

In those districts where cooperative programs are formulated in order to receive funding under P.L. 94-142, each district in the consolidation will receive payment equal to the sum of which such district would be entitled provided the aggregate (sum under the Act) to which the consortia would be entitled is at least $7,500 and that the combined districts are of sufficient size and scope to provide an array of programs. This provision shall be applicable in FY '79 and every year thereafter. Further, a consolidated application must be approved by the State Department of Education and such application representing the several districts must detail/delineate the responsibilities among the districts for serving all handicapped children residing in the districts constituting the consortium. Approved applications shall guarantee the policy of a free and appropriate education to all handicapped children resident within the districts named therein, consistent with § 614(a).

The decisions as to which school districts shall consolidate for the purpose of receiving entitlements under P.L. 94-142 shall be within the purview of the boards of trustees of local school districts involved contingent upon the final approval of the State Department of Education. Consortia districts must be of the immediate geographic area.

D. Process to Insure Comparability

The primary responsibility of insuring a system of public education which provides appropriate educational opportunities to every student lies with the South Carolina State Board of Education (SBE). In order to fulfill this responsibility, the LEA or IEU must operate educational programs which meet the following criteria:

1. provide at least a minimum educational program as set forth in the Defined Minimum Program for South Carolina School Districts (DMP).
2. insure a minimum level of adequate human and financial resources.

Minimal standards for all children receiving public education, including the handicapped, are outlined in the DMP, approved by the SBE on February 9, 1973, as amended on April 11, 1975. Specific portions of the DMP relate directly and uniquely to the insurance and propriety of the establishment and maintenance of programs for handicapped children in LEA's. It is this mechanism, the DMP, that insures comparability among all programs regardless of funding sources.

The Office of Programs for the Handicapped serves on a consultative basis to the Accreditation Section of the Office of General Education, which has the prime responsibility within the SEA for conducting audits to insure that standards set forth in the DMP are established and maintained.

Although comparability is insured among LEA programs through the implementation and auditing of the DMP, an additional mechanism insuring comparability will be through the auditing, by the Office of Programs for the Handicapped, of the Individualized Education Programs (IEP), as required under P.L. 94-142, §§ 612(4), 613(11), and 614(a)(5). Detailed elaboration of this mechanism is subsumed under that portion of this State Plan.

E. Uniform Reporting Procedures

The Office of Finance of the South Carolina Department of Education is piloting a uniform accounting system, Handbook II, revised, Department of Health, Education and Welfare Publication Number (OE) 73-11800. Upon completion, it is anticipated that all Local Education Agencies (LEA's) in the State of South Carolina shall implement a uniform accounting system by July 1, 1977, (as set forth in § 613(a)(7)). This system shall enable the State Education Agency (SEA) through the LEA, to meet the provisions of "(a) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this part, and (b) keeping such records and affording such access hereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursements of Federal funds under this part." § 613 (a)7

Assurances that SEA shall utilize financial reporting forms developed by the Commissioner under § 617 (a)2.

"As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Commissioner shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this part in order to assure equity among the States." § 613 (a)2

The SEA shall, consistent with requirements of the Act, assure "that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State" as prescribed under § 613 (a)10.

XV. ANNUAL EVALUATION (§121a.146)

Indicate whether the policies and procedures in your State's 1978 plan are incorporated by reference and/or whether the State has adopted new/additional procedures. (2) Provide this information in the body of the 1979 plan, or include it in the appendix. Give appendix number.

The policies and procedures for annual evaluation in the 1979 Amended Annual Program Plan are incorporated by reference from the 1978 Amended Annual Program Plan. See pages 143-156.

XV. ANNUAL EVALUATION (613) (a) (11)

Section 613 (a) (11) requires the State Plan to "provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of the individual education programs) in accordance with such criteria that the Commissioner shall prescribe pursuant to (the Act)."

A. Describe the procedures your State will utilize for evaluating, at least annually, the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of individual education programs.

1. The South Carolina State Department of Education, Office of Programs for the Handicapped, shall have the responsibility to evaluate the effectiveness of programs in meeting the educational needs of the handicapped including evaluation of the written individualized education programs (IEP's). The SEA shall be responsible for conducting on-going evaluations of IEP's in the LEA's. The SEA shall annually disseminate an evaluation form to a random sample of LEA's. The evaluation form will require that LEA's specify the degree to which the objectives in the IEP's for individual children have been successfully completed. The SEA shall also conduct team site visits in order to monitor IEP's and other program areas in a comprehensive manner (Reference Audit Manual for Programs for the Handicapped, Attachment #5).

2. The SEA shall annually monitor all appropriate public and private agencies operating educational programs for handicapped children of legal school age relative to the effective implementation of the requirements of

The information set forth and incorporated by reference on Page 143, Number 2 has been revised as follows:

2. The SEA shall annually monitor all appropriate public and private agencies operating educational programs for handicapped children relative to the effective implementation of the requirements of those provisions of P. L. 94-142 applicable to each agency. The following agencies include: 1) Local Education Agencies (LEA's), 2) Private Schools in which the SEA or LEA places a handicapped child, and 3) State Agencies operating special education programs for handicapped children.

those provisions of P. L. 94-142 applicable to each agency. The following agencies include: 1) Local Education Agencies (LEA's), 2) Private Schools in which the SEA or LEA places a handicapped child, and 3) State Agencies operating special education programs for handicapped children of legal school age.

a. Local Education Agencies and Private Schools

Local education agencies (LEA's) and private schools, which provide special education and related services to handicapped children placed by the LEA or SEA, shall be monitored annually to determine implementation of the following:

1. Standards outlined in the Defined Minimum Program for South Carolina School Districts (DMP).
2. Criteria/procedures outlined in the Procedures for Survey, Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped.
3. SEA policies/procedures relative to procedural safeguards, confidentiality, non-discriminatory testing, individualized education programs, and least restrictive environment.

b. State Agencies

Agencies within state government which operate educational programs for handicapped children shall be monitored by the SEA to insure compliance with SEA standards. Section 21-50 of the 1962 South Carolina

Code of Laws authorizes the SEA to prescribe standards for the educational programs of the following agencies which have submitted a Defined Minimum Program to the SEA:

John de la Howe
Opportunity School
South Carolina School for the Deaf and the Blind

Other agencies within state government delivering educational programs/related services to handicapped children whose educational program has heretofore not fallen under the general supervision of the SEA include:

Department of Mental Health
Department of Mental Retardation
Department of Corrections
Department of Social Services

These agencies will be required to develop Educational Standards which must be approved and monitored by the SEA.

3. Should other agencies and/or organizations become a LEA or another agency providing special education and/or related services to handicapped children, such agencies shall be required to develop Educational Standards which must be approved by the SBE.

   a. Process for Development of Educational Standards

   Each agency and/or organization within state government, operating educational programs for handicapped children (birth to 21 years of age) shall develop Educational Standards. These standards must be approved by the SBE.

1. The Accreditation Section of the Office of General Education, in cooperation with the Office of Programs for the Handicapped, will notify the appropriate agencies that the Educational Standards shall be the criteria on which general supervision will be based.
2. In recognition that other agencies serve a substantially different population of handicapped children than that of the public schools, the Educational Standards of other agencies will be similar in format yet may differ in content than that utilized by LEA's.
3. Selected representatives from the Accreditation Section of the Office of General Education and personnel from the Office of Programs for the Handicapped will meet with the individual agencies concerned to preliminarily agree/clarify the format of the Educational Standards with respect to individual agencies.
4. The final date for submission of the Educational Standards by other agencies shall be within six (6) months following the date of approval of the FY 78 Program Plan by the Bureau of Education for the Handicapped (BEH), United States Office of Education.
5. The Educational Standards developed by other agencies

and approved by the SBE shall be binding on any program under the auspices of said agency or contracted by said agency.

b. Process for Approval of Educational Standards

The Accreditation Section of the Office of General Education and the Office of Programs for the Handicapped shall be responsible for recommending approval/disapproval of the Educational Standards promulgated under this plan to the SBE. Specifically, the following sequence shall be operative:

1. Upon receipt of the agency's Educational Standards, appropriate staff members of the Office of Programs for the Handicapped shall critique the proposed Educational Standards and make recommendations to the Chief Supervisor of the Program Section, Office of Programs for the Handicapped.
2. The Chief Supervisor of said section shall provide a written recommendation to the Director, Office of Programs for the Handicapped.
3. The Director shall review and forward the recommendations along with the proposed Educational Standards to/through the appropriate hierarchical structure culminating in recommendations to the SBE.
4. The SBE shall have the authority for final approval/disapproval of all Educational Standards.

c. Alternatives When Educational Standards are Disapproved

In the event that the SBE disapproves Proposed Educational

Standards, the following procedures shall be invoked:

1. A statement shall be provided by the SBE to said agency specifying the reasons for disapproval along with suggested recommendations to render the Educational Standards approvable.
2. The Educational Standards, with modifications, shall be re-submitted within sixty (60) days, from the time of disapproval, to the SEA and submitted to the SBE at the scheduled meeting immediately following the first meeting of the SBE from the time of re-submission.
3. The sixty (60) day requirement shall be waived only in extenuating circumstances documented by the agency. Extenuating circumstances shall include, but not be limited to, untimely deaths, resignations and other matters of this nature.

4. System for Monitoring Defined Minimum Programs and Educational Standards

The responsibility for monitoring Defined Minimum Programs and Educational Standards shall be vested in the Office of Programs for the Handicapped in cooperation with the Accreditation Section of the Office of General Education, State Department of Education.

a. A letter of notice shall be accorded to the agency by the SEA thirty (30) days prior to the SEA team site visit.
b. Each agency maintaining an approved Defined Minimum

Program or Educational Standards shall be monitored at least annually.

c. Monitoring activities shall be accomplished on a structured basis.

d. A written report of the findings of the monitoring activities shall be submitted to the State Superintendent of Education and to the Chief Administrative Officer of the Agency concerned.

e. In the event deficiencies are observed, the agency shall have a period of ninety (90) days to resolve the deficiency(s) provided the deficiency is of the type amenable to short term resolution; however, the ninety (90) day period may be lessened for gross deficiencies as determined by the State Superintendent of Education. Deficiencies of an in-depth nature requiring extended periods of time for resolution shall be accorded sufficient time as determined by the State Superintendent of Education.

5. System for Monitoring SEA Policies/Procedures Relative to Non-Discriminatory Testing, Procedural Safeguards, Confidentiality, Individualized Education Programs and Least Restrictive Environment. The responsibility for annually evaluating the implementation of SEA standards and procedures relative to the above listed provisions shall be vested in the Office of Programs for the Handicapped, State Department of Education.

a. A letter of notice shall be accorded to the agency by the SEA thirty (30) days prior to SEA team site visit.

b. Monitoring activities shall be performed through utilization of an audit form approved by the State Superintendent of Education (Reference Audit Manual for Programs for the Handicapped, Attachment #5).

c. Auditing visits shall be accomplished on a structured basis, or for purposes of investigating alledged violations of the requirements set forth in the regulations.

d. For purposes of investigating alledged violations, the thirty (30) day notice is inapplicable.

e. The agency audited shall have the responsibility of insuring that all such records are available to the auditing team and are maintained in one (1) central location for the purpose of implementing the auditing requirements.

f. Further, it shall be the responsiblity of the agency audited to organize the forms in such a manner as to expedite the auditing process.

6. Enforcement Procedures for Failure to Develop Educational Standards.

Failure to develop SBE approved Educational Standards within the time frame specified herein shall result in the following actions:

a. No further public monies administered through the SEA shall be paid to any agency not meeting the requirements herein stated. As each agency has an administrative structure with different components for service delivery, the Educational Standards of the parent agency may be written in such a manner so as to be compatible with the agency's organizational structure for service delivery. In such instances penalties for unresolved deficiencies of one (1) service delivery component shall not impinge on the agency taken as a whole.

b. Denial of public monies under Item 1 above shall not transpire without prior written notification by the State Superintendent of Education to the Chief Administrative Officer of the agency concerned.

c. The State Superintendent of Education may, with consent of the SBE, agree to continue payment of public monies for a period not to exceed thirty (30) days beyond the sixty (60) day requirement for resubmission of the disapproved proposed Educational Standards. Withholding of public monies as specified above shall be only until such time that the agency acquires SBE approved Educational Standards.

d. Any agency not submitting Educational Standards for SBE consideration within six (6) months of approval of the FY '78 State Plan shall be penalized in accordance with the procedures specified above.

e. Any public monies withheld shall be reserved for said agencies for a period not to exceed one (1) fiscal year or in cases where the SEA is a subcontractor, monies shall not be reserved beyond

The information set forth and incorporated by reference on Pages 145, 146, and 151 has been clarified below:

Educational Standards are defined as standards for the ensurance of quality programs. They do not supplant any requirements of a legal nature as set forth in P. L. 94-142 or subsequent HEW regulations. All State Operated Programs are monitored consistent with the Audit Manual for the Implementation of Public Law 94-142 referenced in Attachment #5. Therefore, Educational Standards add specificity only to the element of law addressing "appropriate" educational opportunity.

Educational Standards pertinent to all State Operated Programs have been approved by the South Carolina Department of Education. However, any elements that may change as a product of modifications in this State Plan shall be restated.

the termination date of the subcontract.

7. Enforcement Procedures for Deficiencies Found in Educational Standards.

   a. If it is determined by the SEA that other agencies are not in compliance with SBE approved Educational Standards specific to an agency providing special education and related services to handicapped children, said agency shall be notified by the State Superintendent of Education of non-compliance. Such notification(s) shall specify the specific elements of non-compliance.

   b. A period of ninety (90) days shall be allowed for resolution of the stated deficiencies; however, this period of time may be lessened by the Superintendent should gross deficiencies be noted. Deficiencies of an in-depth nature requiring extended periods of time for resolution shall be accorded sufficient time as determined by the State Superintendent of Education.

   c. No further payment of public funds administered by the SEA shall be made to the agency concerned until satisfactory resolution of the deficiencies has been achieved.

   d. In the event payments are curtailed, such funds that would normally have been paid shall be reserved for the agency until the end of the current fiscal year or, in cases where the SEA is the sub-contractor, not to exceed the end of the contractual period.

8. Enforcement Procedures for Compliance by LEA's/IEU's.

   If it is determined by the SEA that LEA's/IEU's are in non-compliance with the DMP and Section 612, the following enforcement procedures shall transpire:

   a. Noted deficiencies shall be stated in writing to the Superintendent of the LEA.

   b. A period of ninety (90) days shall be accorded for resolution of stated deficiencies; however, the ninety (90) day period may be lessened for gross deficiencies as determined by the State Superintendent of Education. Deficiencies of an in-depth nature requiring extended periods of time for resolution shall be accorded sufficient time as determined by the State Superintendent of Education.

   c. The State Superintendent of Education shall order termination and seek to recover any previously paid funds under the Act during the fiscal year of the entitlement. Should such resolutions not be achieved with reference to the time period stated above, the amount and method of fund recovery are specified in the financial portion of this plan.

B. In order to meet eligibility requirements under P.L. 94-142 and to receive federal funds including Title I, P.L. 89-313, agencies must provide written assurances (refer to pages 147-149) to the SEA which, in turn, shall evaluate the implementation of such assurances.

TERMS AND CONDITIONS

Under the provisions of Public Law 94-142, § 612 (6), "all educational programs for handicapped children within the State including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet educational standards of the State educational agency." In order to meet eligibility requirements under P.L. 94-142 and to receive federal funds including Title I, P.L. 89-313, agencies must provide the following assurances:

1. That all such educational programs for handicapped children of legal school age operated by any state or local agency be under the general supervision of the State educational agency.

2. That any agency providing special education and related services develop a written individualized education program for each handicapped child of legal school age and that the individualized education program will be revised at least annually. The individualized education program shall include a statement of:

    a. The present level of educational performance
    b. annual goals
    c. specific educational services and the extent to which the child can participate in regular educational programs
    d. short term instructional objectives
    e. projected dates for initiation and duration of services
    f. criteria for annual review update of the individualized education program to determine whether objectives are met.

3. That pupils of legal school age enrolled in special education and related services within the agency be evaluated in accordance with non-biased, non-discriminatory testing, including consideration of the following prior to placement:

    a. environmental data
    b. intellectual assessment
    c. medical history
    d. social history
    e. motor and sensory assessments
    f. adaptive behavior in home, school and community.

4. That handicapped children participate in special education and related services, and regular educational programs with non-handicapped children to the extent that it is in the handicapped child's best interest, and that removal of handicapped children from the regular educational environment occurs only when the nature and severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Normally, the provisions of least restrictive environment would include the following program models:

a. itinerant program models
b. resource room models
c. self-contained models
d. homebound programs
e. residential institutions.

5. That the parents or guardians of such children are invited to participate in special education placement and program planning.

6. That the agency will establish and maintain procedural safeguards in accordance with provisions of this act. Due process shall include:

   a. provision for one person in the agency to be responsible for the collection, maintenance and usage of personally identifiable data as specified in the guidelines on confidentiality
   b. provision of a printed statement of policies and procedures regarding confidentiality to parents
   c. provision for an authorization signed by the parent for the release or transfer of any personally identifiable data to persons other than those specified in the guidelines on confidentiality under § 613 (b)(1) B of EHA-B. Persons for whom an additional authorization by the parents is not necessary includes:

      1. the Comptroller General of the United States
      2. Secretary of Health, Education and Welfare
      3. designated State Educational Agency officials
      4. designated Local Educational Agency officials
      5. designated representatives of direct-service agencies

   d. provision of the expunction of data consistent with the guidelines on confidentiality under § 613 (b)(1) B of EHA-B which requires that:

      1. all personally identifiable data be destroyed within five (5) years after data is no longer needed to provide educational services, except that a personal record consisting of the pupil's name, address, telephone number, grade level completed and the year completed may be maintained without time limitation.
      2. parents shall be notified forty-five (45) days prior to destruction of data that they have the right to request and be provided at reasonable cost, a copy of any data which has been obtained.

7. That appropriate physical education be made available to every handicapped child and that he/she be afforded physical education comparable to services provided to non-handicapped children.

8. That such information be furnished to the State educational agency as is necessary to perform its duties under this act, including provinding information relating to the educational achievement of handicapped children participating in programs carried out under the act.

9. That such records be maintained and access afforded to such records as the State educational agency finds necessary to assure the correctness and verification of information required under this act.

10. That control of funds provided under this act, and title to property derived from such funds shall be in a public agency for the uses and purposes of this act.

I hereby certify that this agency has developed procedures to insure compliance with Public Law 94-142 as specified above.

____
Chief Administrative Officer

____
Date

Agency:____

XVI. ADDITIONAL REQUIREMENTS

A. RESPONSIBILITY OF SEA FOR ALL EDUCATIONAL PROGRAMS (§121a.134)

Provide the information required under Section 121a.134 and 121a.600.

Consistent with the Act and federal regulations promulgated thereunder the South Carolina State Department of Education shall be responsible for all education programs for handicapped children consistent with and as defined by Public Law 94-142. "Responsibility" shall mean that the State Education Agency shall ensure that all public agencies providing special education and related services for handicapped children shall be in compliance with federal regulations promulgated under the authority of Public Law 94-142. As the Act and the regulations specify that the State shall ensure a free appropriate public education for all handicapped children, the State Education Agency does not assume financial responsibility for all such programs operated in the State.

Compliance and responsibility shall be achieved through the following mechanisms:

(1) The SEA shall require that all programs shall develop either Educational Standards or a Defined Minimum Program as appropriate, to ensure qualitative programs are maintained. (Reference pages 144 - 156).

(2) The SEA shall require compliance by all public agencies with regard to all provisions set forth in regulations promulgated by Department of Health, Education and Welfare, August 23, 1977. (Reference Attachments 5 and 9).

The following information is provided as further clarification of Page 157 XVI, A, 1 of this Plan.

Educational Standards are defined as standards for the ensurance of quality programs. They do not supplant any requirements of a legal nature as set forth in P. L. 94-142 or subsequent HEW regulations. All State Operated Programs are monitored consistent with the Audit Manual for the Implementation of Public Law 94-142 referenced in Attachment #5. Therefore, Educational Standards add specificity only to the element of law addressing "appropriate" educational opportunity.

Educational Standards pertinent to all State Operated Programs have been approved by the South Carolina Department of Education. However, any elements that may change as a product of modifications in this State Plan shall be restated.

(3) The SEA shall monitor all LEA's and programs operated by public agencies to ensure compliance with the requirements of the Act. (Reference pages 158 - 164).

(4) Memoranda of agreement have been developed between public agencies and the SEA for the purpose of setting forth and delineating responsibilities for service delivery. (See Attachment 10).

(5) The SEA includes public agencies as recipients of dissemination activity relative to requirements of the Act.

(6) All public agencies are invited to attend various technical assistance conferences conducted by the SEA with reference to the improvement of promising pedagogical and administrative practices.

(7) All public agencies are invited to participate in the development of the Amended Annual Program Plan through Regulation Input Team conferences.
(Please refer to attachments 6,9,10, and 23 for verification of above).

B. MONITORING PROCEDURES (§121a.135)
Include information which shows that the requirements in the following sections of the regulations are met:

Monitoring and Evaluation activities §121a.601

Specific procedures and mechanisms are detailed below:

(1) Collection of Data and Reports

The SEA collects a number of data items which are analyzed and used in the monitoring process. Included in these items are:

(a) Each LEA is required to submit statistical and narrative information in its Public Law 94-142 Local Education Agency Application.

(b) When an LEA must place a handicapped child with another service provider, an application is required that includes the rationale for the mechanism of service delivery, assurance of Least Restrictive Environment, and that all requirements of Public Law 94-142 are honored.

(c) The SEA collects pupil information of all pupils enrolled in special education in the State. Such data is collected in a manner to protect the confidentiality of this information.

(d) The SEA reviews and recommends to the State Board of Education Educational Standards from SOP's and other public agencies for the purpose of insuring that all requirements of Public Law 94-142 are met by the said SOP's and other public agencies.

(2) Conducting Site Visits

(a) By August 1 of uneven years an unbiased third party shall randomly select fifty per centum (50%) of the public agencies and private schools where students were placed by LEA/SEA to be audited during the coming school year. Those not selected will be audited the following year.

(b) Each site audit shall be conducted including all aspects of the Act as appropriate.

(c) Professional staff conducting said audits will be determined on an individual basis by the Chief Supervisors subject to the approval of the Director, Office of Programs for the Handicapped, no later than August 15.

(d) Each audit team will consist of no fewer than two professional staff members with one serving as chairperson. The latter will be designated by Chief Supervisors.

(e) The Consultant, South Carolina Learning Resource Center, shall be responsible for determining specific audit dates (October 15 - May 15) for all agencies and private schools no later than August 30 of the preceding year.

(f) The Consultant, Learning Resource Center, shall be responsible for ensuring that each agency and private school receives a letter of notice signed by the Director, Office of Programs for the Handicapped, thirty (30) days prior to the team site visit. This correspondence shall be mailed to the Chief Administrative Officer.

(g) Each agency/private school must provide, as required, ready access in a central location to all pertinent information during the monitoring visit. In addition, other agencies must provide a separate list by program unit which specifies the teacher, school, address, names of students, program model and area of handicapping condition.

(h) Within ten (10) days after a site visit to the Local Education Agency or private school, the chairperson will submit two (2) xeroxed copies of the specific pages utilized from the Audit Manual for the Implementation of Public Law 94-142 (Reference: Attachment 5) to the appropriate Chief Supervisor along with two (2) copies of the summary letter for the Director's signature. The chairperson should refer to page 146 of the "Amended Annual Program Plan for Fiscal 1978 Under Public Law 94-142, Part "B", Education of All Handicapped Children Act" to ensure thoroughness of the content of the summary letter.

(i) Simultaneously, the Audit Manual for the Implementation of Public Law 94-142 (in its entirety) will be transmitted to the Consultant, Learning Resource Center for analyzing commonality of problem areas and storage. This serves as a planning guide for technical assistance by the SEA.

(j) Within ten (10) days after a site visit to a participating agency (SOP), the chairperson will submit to his Chief Supervisor two (2) copies of a written report to be developed consistent with the Educational Standards along with a cover letter for the Director's signature. A copy of the report will be sent to the Consultant, Learning Resource Center. The Chairperson should refer to page 145 of the "Amended Annual Program Plan for Fiscal 1978 Under Public Law 94-142, Part "B", Education of all Handicapped Children Act" to ensure thoroughness of the content of the report and letter.

(k) The appropriate Chief Supervisor will transmit the information set forth in items eight (8) and ten (10) to the Director who shall review and either approve/disapprove and return copies to the Chief Supervisor.

(l) The appropriate Chief Supervisor will ensure that the original cover letter and audit report are mailed to the Chief Administrative Officer of the unit audited.

(m) A copy of the information transmitted to the Chief Administrative Officer shall be filed.

(n) Should the product of an audit of a Local Education Agency reveal that violations of the State Board of Education requirements set forth in the Defined Minimum Program exist, a copy of the complete audit report shall be transmitted to the Accreditation Section of the Office of General Education. If participating agencies (SOP's) are not in compliance with State Board of Education approved Educational Standards, the identical procedure shall be followed.

(o) Should the audit reveal that violations of Congressional Acts, federal regulations or State Board of Education policies, other than those set forth in the Defined Minimum Program or Educational Standards, exist the Director shall determine the specific procedures for follow-up.

(3) Audit of Federal Fund Utilization

Any recipient of funding through SEA funds derived from Public Law 94-142 must complete a budget detail specifying fund utilization. The analysis and subsequent approval/disapproval is contingent upon determination that the funds are used in accordance with the excess costs regulations (§121a.184, Federal Register) and assurances

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that title to property remains in a public agency and that these funds shall not be comingled with other funds.

(4) Comparison of a Sampling of Individualized Education Programs with the Programs Actually Provided.

(a) A portion of the evaluation programs for the handicapped shall consist of composites of site audit reports. This formation shall be structured by personnel in the Office of Programs for the Handicapped in such a manner to indicate commonalities in programmatic effectiveness.

(b) The specific design for evaluating IEP's is as follows:

(i.) At least one (1) IEP shall be obtained from each LEA by the Office of Programs for the Handicapped to perform a quantitative evaluation. The system of selection for collection shall name specifically the surname of the first child in each LEA. Such collection shall be with respect to varying program models to insure the acquisition of a broad scope of IEP's. Additionally, a minimum of five (5) IEP's from each State Operated Program shall be collected per center.

(ii.) Fifty per centum (50%) of the IEP's collected shall have a completed questionnaire with reference to short-term objectives. Short-term objectives shall be structured in each of the following three (3) domains:, i.e., cognitive, affective, and psychomotor.

(iii.) Analysis of the results obtained from the design above shall be performed by the Office of Programs for the Handicapped and transmitted to BEH no later than June 30 of each year.

(iv.) Utilization of Analysis: Results obtained from these analyses shall be used in program planning, budgeting, and personnel preparation during ensuing years.

(5) Monitoring of Comprehensive System of Personnel Development

(a) In terms of manpower production, the SEA will monitor the number of persons being graduated with respect to areas of need in the State Colleges and Universities.

(b) The SEA will also monitor the number of persons who enter the state with training obtained externally.

(c) The SEA will conduct an analysis of the attrition rates of current professionals and paraprofessionals in the state.

(d) The South Carolina Education Finance Act of 1977 requires each LEA to conduct needs assessment regarding inservice. This needs assessment data will be reviewed by the SEA.

(e) Evaluative measures will be conducted on all inservice training conducted by the SEA.

(f) Evaluation of all inservice and preservice performed under the auspices of Part "D" will be conducted by the SEA.

(g) The SEA will evaluate qualitatively the number and kind of inservice training contrasted with the established inservice priorities on a state-wide basis.

The following information is offered as explanation of the SEA's monitoring and evaluation activities as it relates to direct services by the SEA:

"Direct Services" are defined on Pages 180-182 of this Plan. In accordance with the requirements of Public Law 94-142 and subsequent federal regulations, all direct services are monitored by the SEA to ensure compliance. More specifically, the SEA provides direct services in three instances:

1. Pupil evaluation for child manifesting rare, unique and complex handicapping conditions. Monitoring mechanism:
    a. The SEA ensures compliance by the party of the second part with the requirements of protection in evaluation procedures as set forth in §121a.530-534 Federal Regulations.
    b. Site monitoring is performed by the professional staff of the Department of Education.
2. Financial assistance to LEA's in those instances where children must be placed for service delivery in other than a public school. Monitoring mechanism:
    a. Out of State Placement - Monitoring is achieved through the SEA of the State where service delivery occurs.
    b. In State Placement - Monitoring is performed directly by the SEA in the identical manner as public schools are monitored. Reference Attachment #5.
    c. In State/Out of State - Applications for placement in other than a public school either in/out of state must be completed and approved by the Director of the Office

of Programs for the Handicapped. The application ensures compliance with the provisions of Public Law 94-142. Reference Attachments #14, 15 and 16.

3. Direct services are contracted with other SOP's. Monitoring mechanism:
   a. Audits are performed by the SEA on all SOP's utilizing the monitoring instruments set forth in this Plan.

Adoption Of Complaint Procedures (§121a.602)

Consistent with the above regulation, the SEA has adopted a formal procedure for the investigation and resolution of complaints. The specific procedures are set forth below:

SYSTEM FOR INVESTIGATING COMPLAINTS RECEIVED FROM CONSTITUENTS RELATIVE TO FREE APPROPRIATE EDUCATION

Authority

Public Law 94-142, §615 (E) requires that parents and guardians be provided "an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or provision of a free appropriate education to such child."

§ 121a.602 of the Federal Regulations promulgated by the Department of Health, Education and Welfare (August 23, 1977) to implement P.L. 94-142 requires that "(a) Each State educational agency shall adopt effective procedures for reviewing, investigating, and acting on any allegations of substance, which may be made by public agencies, or private individuals, or organizations, of actions taken by any public agency that are contrary to the requirements of this part. (b) In carrying out the requirements in paragraph (a) of this section, the State educational agency shall: 1) Designate specific individuals within the agency who are responsible for implementing the requirements; 2) Provide for negotiations, technical assistance activities, and other remedial action to achieve compliance; and 3) Provide for the use of sanctions, including the withholding of Part B funds in accordance with § 121a.194 of the Federal Regulations promulgated by HEW (August 23, 1977).

Definition of Complaint

The term "complaint" means a written or oral communication of a substantive nature which is perceived to be in violation of the requirements of P.L. 94-142, the Laws of South Carolina governing education of the handicapped and State Board of Education regulations promulgated under the authority thereof. The term "complaint" should not be confused with requests for information. Thus, in those instances when plaintiffs have not consulted appropriate persons at the service delivery level, they shall not be judged as complaints.

Substantive Areas of Complaints as Related to Free Appropriate Education

Substantive complaints shall consist of, but not be limited to the following items:

1. Failure of LEA to adhere to SBE policy regarding non-biased, non-discriminatory testing.
2. Failure of LEA to provide educational programs/services or appropriate programs/services.
3. Failure of LEA to provide or arrange for proper placement in accordance with least restrictive educational environment.
4. Failure of LEA to develop an IEP or an inappropriate IEP.
5. Failure of LEA to adhere to procedural safeguards including "procedural due process" and confidentiality.
6. Failure of LEA to comply with Defined Minimum Program Standards, i.e., class size, certificated teaching personnel, etc.
7. Failure of LEA to provide adequate facilities.
8. Failure of LEA to provide sufficient and appropriate materials and equipment.

Level I Complaints

1. When an initial complaint is received by a consultant from a constituent either verbally or through written correspondence, the person receiving the complaint will submit Form I (top portion completed) to the appropriate Chief Supervisor who will assign the investigation to an appropriate professional staff member. The Chief Supervisor will inform the Director, as a matter of procedure, that a complaint has been received. In cases where a complaint is not within the purview of the Office of Programs for the Handicapped (as determined by the Chief Supervisor) a copy of the complaint will be transmitted to the appropriate SEA official.

2. Within three (3) days after a consultant receives an assignment from the appropriate Chief Supervisor to investigate a complaint, the consultant will notify the LEA's Coordinator of Programs for the Handicapped and/or Superintendent (as determined by the Chief Supervisor based upon the nature of complaint) by means of telephone to report the nature of the initial complaint, to obtain information regarding the LEA's verification of the complaint, efforts to resolve the problem area and to inform the LEA that a copy or abstract of the complaint will be mailed to the LEA person(s) contacted. When a complaint from a constituent is received by telephone, submit completed copy of Form I to LEA. Submit a copy of constituent's letter when a written complaint is received.

3. Following the LEA contact by means of telephone and written correspondence, the consultant will submit a copy of Form I to appropriate Chief Supervisor for filing. An additional copy of Form I will be mailed to constituent registering the complaint.

4. Within thirty (30) working days after written correspondence

to the LEA/constituent and no further complaints of the instance cited are received from the constituent, the issue is considered resolved. If the LEA Superintendent/Coordinator of Programs for the Handicapped submits written correspondence following contact by a consultant, the consultant will forward a copy of the correspondence to the constituent if the LEA does not indicate a carbon copy of the letter to constituent. The consultant will submit the written correspondence received from the LEA to the appropriate Chief Supervisor for filing.

Level II Complaints

1. When a consultant receives a second complaint from a constituent previously filing the same complaint, either verbally or through written correspondence, the consultant will notify the appropriate Chief Supervisor. The Chief Supervisor will inform the Director, as a matter of procedure, that a second complaint has been received.

2. In cases where the complaint is received by a consultant other than the consultant assigned to investigate the initial complaint, the Chief Supervisor will inform the appropriate consultant that a second investigation is warranted.

3. Within three (3) days after receiving the second complaint the consultant will notify the LEA's Coordinator of Programs for the Handicapped and/or Superintendent (as determined by the Chief Supervisor based upon the nature of the complaint) by means of telephone to report the nature of the second complaint, obtain information regarding the LEA's efforts to resolve the problem area and to inform the LEA that Form II will be mailed to the person(s) contacted and should be completed and returned to the consultant within ten (10)

working days. A copy of the correspondence with LEA's will be forwarded to the constituent.

4. Following the LEA contact by means of telephone and written correspondence, the consultant will submit a copy of the letter to the LEA and Form II (top portion completed) to the appropriate Chief Supervisor for filing.

5. When the LEA returns Form II (bottom portion completed), the consultant will submit this Form to the Chief Supervisor. The Chief Supervisor will inform the Director of the LEA's attempts to resolve the problem area and advise the consultant of the subsequent course of action (i.e., letter to LEA verifying receipt of Form I, letter to LEA requesting additional information, etc.)

6. The consultant will forward a copy of Form II completed by the LEA to constituent, if LEA does not indicate carbon copy of letter to constituent.

7. If no further complaint is received from constituent within thirty (30) working days after LEA returns Form II, the issue is considered resolved.

Level III Complaints

1. When a consultant receives a third complaint from a constituent, previously filing the same complaint either verbally or through written correspondence, the consultant will notify the appropriate Chief Supervisor. The Chief Supervisor will inform the Director, as a matter of procedure, that a third complaint has been received.

2. In cases where the third complaint is received by a consultant other than the consultant assigned to investigate the second complaint, the Chief Supervisor will inform the appropriate consultant that a third investigation is warranted and advise the consultant of

the subsequent course of action (i.e., schedule meeting in the Office of Programs for the Handicapped, schedule site visit to LEA, etc.)

3. The consultant will notify the Coordinator of Programs for the Handicapped and/or District Superintendent (as determined by the Chief Supervisor) by means of telephone to report the nature of the third complaint and to schedule a conference/site visitation (as determined by the Chief Supervisor) with appropriate LEA personnel to offer assistance in resolving the problem area. Subsequently, a letter and a copy of Form III will be submitted to the person(s) contacted. A copy of the letter to the LEA will be forwarded to the constituent.

4. Following the LEA contact by means of telephone and written correspondence, the consultant will submit copies of the letter to the LEA and Form III (top portion completed) to the appropriate Chief Supervisor for filing.

5. Consultant will conduct conference/site visitation to provide technical assistance to LEA in resolving the problem area. LEA will be urged to complete Form III (bottom portion) and return to consultant within ten (10) days after conference/site visitation. Consultant will submit completed copy of Form III to Chief Supervisor and copy of Form III to constituent.

6. If no further complaints are received from constituent within thirty (30) days, the issue is considered to be resolved.

Level IV Complaints

1. When a consultant receives a fourth complaint from a constituent, previously filing the same complaint either verbally or through written correspondence, the consultant will notify the appropriate Chief Supervisor. The Chief Supervisor will inform

the Director that a fourth complaint has been received.

2. In cases where the fourth complaint is received by a consultant other than the consultant assigned to investigate the complaint, the Chief Supervisor will inform the appropriate consultant that a fourth complaint has been received.

3. The following procedures shall transpire:

   a. The Director will submit noted problem areas in writing to the State Superintendent through the Deputy Superintendent. The appropriate Chief Supervisor will insure the maintenance of a detailed history of the complaint and the efforts to resolve problem areas.

   b. The LEA will be notified and a period of ninety (90) days shall be accorded for resolution of stated deficiencies; however the ninety (90) day period may be lessened for gross deficiencies as determined by the State Superintendent of Education. Deficiencies of an in-depth nature requiring extended periods of time for resolution shall be accorded sufficient time as determined by the State Superintendent of Education.

   c. The State Superintendent of Education may order termination of funds in accordance with § 121a.194 of the Federal Regulations (August 23, 1977) and seek to recover any previously paid funds under the Act during the fiscal year of the entitlement. Should such resolutions not be achieved with reference to the time period stated above, the amount and method of fund recovery are specified in the financial portion of the Amended Annual Program Plan, Fy '78.

4. The LEA and the constituent registering the complaint will be notified in writing of the SEA's course of action. Additionally, the LEA will be notified that public notice regarding the State Superintendent's decision must be provided to constituents residing within the jurisdiction of the LEA in accordance with § 121a.592 of the Federal Regulations (August 23, 1977).

5. If no further complaints are received from the constituent within thirty (30) days after the LEA informs the SEA that the issue has been resolved, the issue is considered closed.

Level V Complaints

1. When a consultant receives a fifth complaint from a constituent, previously filing the same complaint, either verbally or through written correspondence, the consultant will notify appropriate Chief Supervisor. The Chief Supervisor will inform the Director.

2. In cases where the fifth complaint is received by a consultant other than the consultant assigned to investigate the complaint, the Chief Supervisor will inform the appropriate consultant.

3. When a fifth complaint is received, the Director will notify the State Superintendent through the Deputy Superintendent.

4. Upon determination that procedures for recovery of funds under the Act are invoked by the State Superintendent of Education, the following procedures shall apply:

a. Further payment shall be discontinued to the LEA/IEU in the amount of one pupil's portion under the entitlement multiplied by the number of pupils specified in the Ammended Annual Program Plan FY '78 (F (1)(2)(3)) an amount proportionate to the length of time remaining in the school year of the fiscal year of entitlement.

b. The State Superintendent of Education shall require reimbursement to the SEA an amount equal to the sum of one pupil's portion under the entitlement based upon policies set forth under the Amended Annual Program Plan FY '78 (1 (a)(b)(c) multiplies times the number of children specified in policies (F (1)(2)(3) from the Amended Annual Program Plan FY '78 for that portion of the fiscal year and during which payments have been made to LEA/IEU. Should reimbursement not be made to the SEA by the end of the fiscal year of the entitlement, the amount of the reimbursement shall be deducted from the next fiscal year for which the LEA/IEU received an approved application.

5. The SEA will notify the LEA and the constituent registering the complaint in writing of the SEA's course of action. Additionally, the LEA will be notified that public notice regarding the State Superintendent's decision must be provided to constituents within the jurisdiction of the LEA, in accordance with § 121a.592 of the Federal Regulations (August 23, 1977).

6. When funds are withheld from the LEA, the State Superintendent of Education may use the various alternatives available to him for enforcement of federal and state laws.

SEA Efforts to Avert Level V Complaints

The SEA provides an array of services for LEA's in an effort to avert the possibility of Level V complaints, which may result in the withholding of funds in accordance with § 121a.194 of the Federal Regulations (August 23, 1977). These services include, but are not limited to the following: 1) coordinating conferences/workshops for teachers and administrators, 2) developing and disseminating publications, 3) disseminating information regarding state and federal laws and SBE policies, 4) providing on-going technical assistance to LEA administrators through site visitations, consultations, etc., 5) providing leadership training for administrators through the Leadership Training Center, 6) providing evaluations through the Regional Resource Center for pupils exhibiting complex, rare and unique handicaps, 7) coordinating the Census of Adolescents and Tracking of Children with Handicaps (CATCH) System which is an interagency referral system, 8) conducting LEA audits annually in compliance with Public Law 94-142.

FORM I

Investigation of Level I Complaints

ounty____________________________ District____________________________________

onsultant Receiving Complaint__________________________ Date______________________

erson Registering Complaint:

Name_________________________________

Address______________________________

____

Telephone ____________________________

ature of Complaint: (Attach written correspondence. Write a brief abstract if complaint is received via telephone.)

---

onsultant Investigating Complaint____

EA Persons Contacted (telephone or written correspondence)

ame_______________________________ Date_______________ Method______________________

ame_______________________________ Date_______________ Method______________________

ction Reported by LEA:

FORM II

Investigation of Level II Complaint

ounty________________________________District________________________________

onsultant Investigating Complaint________________________Date________________

erson Registering Second Complaint____

ature of Complaint:

TO BE COMPLETED BY LEA ONLY

ction Taken by LEA to Resolve Problem Areas:

____
Coordinator of Programs for the Handicapped

____
Superintendent

Return Form II to________________________________, Office of Programs for the Handicapped, by ________________________________.

FORM III

County______________________________District________________________________

Consultant Investigating Complaint_________________________Date_______________

Person Registering Third Complaint____

Nature of Complaint:

Nature of Assistance to LEA (check as appropriate):

Scheduled Conference at OPH_______________________________Date_______________

Scheduled Site Visitation to LEA___________________________Date_______________

TO BE COMPLETED BY LEA ONLY

Action Taken by LEA to Resolve Problem Area:

____
Coordinator of Programs for the Handicapped

____
Superintendent

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C. POLICIES & PROCEDURES FOR USE OF PART B FUNDS (§ 121a.148)

Provide the policies and procedures required in section 121a.148.

The SEA will utilize the following procedures for the use of Part B funds:

1. Of the total allocation under Part B of the Act, the SEA shall retain a sum not to exceed twenty-five (25) per centum.
   a. An amount equal to five (5) percent of the aggregate allocated to the SEA, or $200,000, whichever is greater, shall be utilized by the SEA in administration of § 613 of the Act. Either of the above sums, however, shall be subtracted from the twenty-five (25) percent retained by SEA § 611 (2)(1)(A)
   b. Seventy-five (75) per centum of the aggregate allocated to the SEA shall be made available to Local Education Agencies (LEA's) during the fiscal year of the allocation provided that the requirements of § 714 and § 615 are met. § 611 (c) (B)
2. Seventy-five (75) percent of the aggregate allocation shall, during any fiscal year in which the SEA receives an allocation under Part B of the Act, be made available to LEA in accordance with the following:
   a. The amount available, seventy-five (75) per centum of the aggregate allocation, shall be divided by the average number of handicapped children receiving special education and related services as reported by LEA on October 1 and February 1 of the fiscal year immediately preceding the fiscal year for which the entitlement is made. § 611 (3)

b. The quotient shall yield the amount generated per pupil I. (AGP-I)

c. The amount of the entitlement to any LEA shall be the product of the amount generated per pupil multiplied by the number set forth in 2 (a).

d. Funds under the Act shall not be made available for handicapped children eligible for assistance under § 103 (a)(5) of Title I of the Elementary and Secondary Education Act of 1965.

3. Schedule for Entitlements to LEA

a. The SEA shall approve appropriate applications for funds under the Act only after receipt by the SEA of the Commissioner's approval of the State Plan. § 614 (b)(1)

b. The SEA shall approve the application of an LEA provided the SEA determines that such applications meet the requirements of § 614 (a) of the Act and provide satisfactory assurance that procedural safeguards are established and maintained in accordance with § 612 (5)(B), § 612 (5)(C), and § 615.

c. The SEA shall make entitlements to LEAs having approved applications within sixty (60) days following receipt of notification of approval of the State Plan by the Commissioner and receipt of the grant document pursuant to said approval.

d. If the application submitted to the SEA is not approvable, the SEA shall permit the applicant to make necessary changes within forty (40) calendar days. Should the amended application still be disapproved, applicants will be permitted an additional thirty (30) calendar days to submit another amended application. Should this amendment be unapprovable, a hearing may transpire.

In no case shall the SEA reserve the entitlement longer than one hundred fifty (150) days from the date of approval of the State Plan by the Commissioner, United States Office of Education. Any monies thus forfeited shall be added to recovered funds.

4. Procedures for Utilization of Funds

   a. Funds retained by the SEA (1)(a) (of these policies)shall be utilized by the SEA in the administration of the Act as set forth in § 612 and § 613.

   b. Funds retained by the SEA, exclusive of the administrative set aside, shall be utilized by the SEA to provide payment for direct and support services to handicapped children consistent with the provisions and priorities set forth in § 612 (3) and under the authority of § 611 (1)(b) of the Act. The amount of these funds shall be determined by the following process:

      (i) Five (5) percent multiplied by the aggregate allocation to the state, or the sum of $200,000, whichever is greater, shall be subtracted from twenty-five (25) percent of the aggregate. The expenditures are as follows:

1.	Salaries for professional and clerical staff of the Office of Programs for the Handicapped	49%
2.	Office operations	36%
3.	Child Identification activities	5%
4.	Inservice activities	10%
		100%

      (ii) The balance of funds received under the Act, not including flow-through and administrative set aside, shall be the amount retained and utilized by the State for payment in the provision of direct services to handicapped children. Funds retained and utilized by the State for payment in the provision of direct services shall be matched on a program basis by the State from funds other than federal funds. The expenditures are as follows:

Contracts for direct service delivery	77%
Direct service for priority pupils	20%
Diagnostic evaluations	3%
	100%

c. Priority expenditures for monies retained by the SEA for the provision of direct and support services shall be as follows:

(i) UNSERVED, DIRECT SERVICES

Handicapped children, ages six (6) to twenty-one (21) years, who must receive special education and related services in other than public schools and would be otherwise unserved shall receive first priority under this category of funds. Consistent with South Carolina statutes, Article 4.1, 1972 Code of Laws, as amended, the only acceptable justification for such placements shall be for insufficient numbers of such children to accord them an appropriate program. Prior approval for such placements must be obtained by the LEA from the SEA. The formula for payment for special education and related services is:

aa. The LEA may not expend an amount exceeding one similar pupil's share of local funds.

bb. The SEA may not expend more than one similar pupil's share of state funds. Should the cost of special education and related services exceed the combined sum (aa) and (bb), the balance shall be paid with funds obtained under the Act in accordance with the following procedures:

cc. The LEA shall pay fifty (50) percent of the balance (obtained after subtracting the combined local and state payments and funds derived from any other source exclusive of parent or child from the total cost of special education and related services) from its entitlement under Part B of the Act.

dd. The SEA shall pay fifty (50) percent of the balance from retained funds provided application for enrollment in other than public schools has been approved by the SEA no later than one hundred fifty (150) days following the issuance of any entitlement under the Act during any given year to the LEA by the SEA. The institution delivering special education and related services must do so in accordance with § 613 (4) (B) (ii).

ii. SERVED - SUPPORT SERVICES

Priority two of the SEA shall be payment for the provision of support services with emphasis on support services for severely handicapped children. § 612 (3)

d. Utilization of Entitlements by LEA

The LEA's may expend monies on:

(a) A free appropriate public education to all handicapped children, first with respect to handicapped children not receiving an education, and second with respect to handicapped children within each disability, with the most severe handicaps who are receiving an inadequate education.

(b) Excess costs directly attributable to programs for educating handicapped children.

5. Procedures for Reallocation

   a. The SEA shall notify the LEAs within one hundred fifty (150) calendar days following the date of issuance of entitlements to LEAs by the SEA of the amount of the entitlement that shall not be expended by the LEA by June 30, 1979. The only acceptable reason for not expending all of the entitlement shall be the attainment of full service goals or extenuating circumstances.

   b. The sum of these recovered monies shall be added to any other recovered monies under the entitlement program provided recovery is made within one hundred sixty (160) days following the issuance of entitlements by the SEA.

   c. From the aggregate of monies recovered above (2), the amount necessary to satisfy Priority One of Reallocation shall be subtracted.

   d. Upon satisfaction of Priority One of Reallocation, the balance of recouped funds shall be divided by the average number of handicapped children receiving special education and related services on October 1 and February 1 of the preceding fiscal year of these LEAs not returning expended funds. Children determined to be erroneously classified or otherwise ineligible to be counted shall be subtracted from the previous fiscal year's count of the LEA concerned.

   e. The quotient shall yield the amount generated per pupil (AGP-III).

f. The amount of AGP-III shall be multiplied by the LEA count (d, above) to determine the amount of each LEA reallocation. Reallocation shall be made only to those LEAs not returning funds under the entitlement at the one hundred fifty (150) day notification (5(a) of these policies).

g. Reallocation under Reallocation Priority One shall be made by the SEA within one hundred eighty (180) days following the date of issuance of the original entitlement during any fiscal year.

h. Reallocation under Reallocation Priority Two shall be within two hundred (200) days following the issuance of the original entitlement by the SEA during any fiscal year.

i. No LEA shall receive reallocated funds which, when added to the amount available to it under § 612 (b) of the Act exceeds its allotment, General Provisions (b)(1).

j. All monies recovered under the entitlement program within one hundred sixty (160) days following the date of issuance of entitlements by the SEA during any fiscal year shall be reallocated to LEA consistent with these policies. Recovered funds after this time shall revert, provided the date of "carry-over" of these funds has expired.

6. Reallocation Priorities - Priority One

a. A determination shall be made by the SEA, based upon reports by the LEA, if any portion of the cost of special education and related services accorded to handicapped children in other than public schools and placement thereof was by the LEA approved by the SEA and who would otherwise be unserved, would not be completely covered by the policies (4)(c)(i)(aa)(bb) (cc)(dd) in addition to other state or federal monies or private funds (gifts and/or donations).

b. Should the determination reveal that any portions of the cost of special education and related services would have to be borne by parents or guardians, the total number of such occurrences shall be divided into the aggregate of monies recovered under the entitlement program. The quotient shall yield an amount generated per pupil II (AGP-II). Reallocation shall be made under Reallocation Priority I only to those LEA's who possess handicapped children within their jurisdiction and meet the criteria of 6(a) of these policies. Should the amount of unpaid balance be less than the amount of AGP-II, the amount paid for the purposes stated would be the lesser of the two. Conversely, should the aggregate of unpaid balances be more than the amount available for the total of funds under AGP-II, each pupil for the purposes described herein shall receive a prorata share.

7. Reallocation Priorities - Priority Two

Monies reallocated to LEA under Reallocation Priority II shall be for those purposes set forth in the Act under § 614 (a).

D. NONDISCRIMINATION & EMPLOYMENT OF HANDICAPPED INDIVIDUALS (§121a.150)

(1) Provide the assurance required under section 121a.150, or
(2) Incorporated the assurance by reference if it has already been filed with the Department of HEW.

The Nondiscrimination & Employment of Handicapped Individuals Assurance has been incorporated by reference and has already been filed with the Department of Health, Education, and Welfare. (See the following page for verification.)

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NONDISCRIMINATION & EMPLOYMENT OF HANDICAPPED INDIVIDUALS (§121a.150)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with section 504 of the abilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HEW regulation C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

uant to § 84.5(a) of the regulation [45 C.F.R. 84.5(a)], the recipient gives this Assurance in consideration of and for purpose of obtaining any and all federal grants, loans, contracts (except procurement contracts and contracts of ance or guaranty), property, discounts, or other federal financial assistance extended by the Department of Health, cation, and Welfare after the date of this Assurance, including payments or other assistance made after such date on ications for federal financial assistance that were approved before such date. The recipient recognizes and agrees that federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance that the United States will have the right to enforce this Assurance through lawful means. This Assurance is ing on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below uthorized to sign this Assurance on behalf of the recipient.

Assurance obligates the recipient for the period during which federal financial assistance is extended to it by the artment of Health, Education, and Welfare or, where the assistance is in the form of real or personal property, for period provided for in § 84.5(b) of the regulation [45 C.F.R. 84.5(b)].

recipient: [Check (a) or (b)]

. ( ) employs fewer than fifteen persons;
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. (X) employs fifteen or more persons and, pursuant to § 84.7(a) of the regulation [45 C.F.R. 84.7(a)], has
A74 designated the following person(s) to coordinate its efforts to comply with the HEW regulation:

Dr. Donald C. Pearce, Coordinator of Federal Funding
Name of Designee(s) – Type or Print
C12 C42

C. State Department of Education
e of Recipient – Type or Print
A41

576000286
) Employer Identification Number
A11
B11
C11

1429 Senate Street
Street Address or P. O. Box
A42 A71

Columbia,
City
B12 B41

South Carolina 29201
State Zip
B42 B71

rtify that the above information is complete and correct to the best of my knowledge.

tember 23, 1977
B72 B77

Cyril B. Busbee
Signature and Title of Authorized Official
B78

ere has been a change in name or ownership within the last year, please PRINT the former name below:

E: The 'A', 'B', and 'C' followed by numbers are for computer use. Please disregard.
ASE RETURN ORIGINAL TO: Office for Civil Rights, HEW, P. O. Box 8222, Washington, D.C. 20024.

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E. ADDITIONAL INFORMATION IF SEA PROVIDES DIRECT SERVICES

Provide the information required under Section 121a.151.

The parameter of direct service by the SEA is described under XVIIC, (4,b,ii,) along with the percentages of the aggregate of monies received under the Act, specific to each delineation of direct service.

The SEA's involvement in "Direct services" means the provision of special education and related services, evaluation of handicapped children manifesting unique and complex conditions which require diagnostic efforts exceeding the capabilities of a typical school district. The requirements of § 121a.226 -121a.228, § 121a.231 and § 121a.235 are ensured through the Least Restrictive Environment portion of this Plan and through the mechanism of SEA application forms. (See Attachments 14,16,and 17)

The following information further clarifies the provision of direct services by the SEA.

The provision of direct services by the SEA is specified on Pages 164b and 164c.

1. Provision is made for participation and consultation with parents or guardians of handicapped children. (121a.226)

   Direct services as defined on Pages 164b and 164c are means of ensuring a free appropriate education for all handicapped children. Therefore, the mechanisms employed for direct services by the State Education Agency automatically include the requirements of the Act and specifically consultation with parents/guardians of handicapped children.

2. Handicapped children have the opportunity to participate in regular education programs. (121a.227)

   Handicapped children recipient of direct services by the SEA are accorded all safeguards of Public Law 94-142 as are handicapped children served through LEA entitlements or other funds.

3. Describe the alternative placements available (121a.227(b)) including:

   The number of children within each disability in each type of placement.

   Alternative placements for recipients of direct services are the same as they are for children served through LEA entitlements or other funds. Reference Pages 56 and 57.

   The number of children within each disability cannot be determined prior to the action. However, the SEA does ensure the applicability of least restrictive environment requirements to such children.

4. The SEA controls funds provided under Part B and title to property acquired with those funds. (121a.228)

   The SEA controls funds provided under Part "B" and title to property acquired in the provision of direct services through terms and conditions set forth in the contract document. An audit trail is available for inspection.

5. Services to handicapped children are comparable to those provided with other handicapped children. (121.231(b))

   a)Show that records are maintained (121a.231(b))

   Comparability of service delivery to those provided other handicapped children are assured through terms and conditions of the contract and through program auditing procedures. Appropriate records for direct service delivery are maintained by the SEA and documented through copies of contracts, audit reports and pupil referral devices.

5. Development of an IEP (121a.235)

   Handicapped children served through "direct services" by the SEA must be accorded the same requirements as children served otherwise including promulgation of an IEP. However, one ambit of direct services as defined on Pages 164b and 164c is preliminary to the conceptualization of IEP's.

Attachment 1

CONFIDENTIALITY

In accordance with detailed criteria prescribed by the Commissioner, the following policies and procedures have been established by the State of South Carolina to protect the confidentiality of the child identification data and information required under Section 613 (b)(1)(A) of the Act:

I. Notice: Method and Content

A. Newspaper Announcements. The South Carolina State Department of Education will place announcements in all major newspapers having statewide coverage, upon the United States Office of Education's approval of the FY '76 Program Plan, including The State, The News and Courier, and The Greenville News. All public announcements will be presented in English, as the population of the state is relatively homogenous with regard to native language unless it is clearly not feasible to do so. Announcements containing information similar to the following will appear in the above mentioned papers:

> The South Carolina Department of Education is coordinating the collection of selected information on mentally handicapped, emotionally handicapped, learning disabled, hearing handicapped, speech handicapped, visually handicapped, orthopedically handicapped and deaf-blind children, birth through twenty-one years of age for the purposes of identifying all handicapped children who are not presently receiving educational services by any agency, identifying preschool handicapped children, determining present and future program and placement

needs, and for statistical reporting. Information will be sought from the local educational agencies, Department of Mental Health, Department of Mental Retardation, Department of Health and Environmental Control, Department of Vocational Rehabilitation, Commission for the Blind, United Cerebral Palsy, Head Start, Urban League, South Carolina School for the Deaf and Blind, Charles Lea Center, Youth Services, Babcock Center, Department of Corrections and the South Carolina Opportunity School.

Information which could identify an individual child will be maintained only by designated individuals in the SEA, LEA and other participating local and state agencies/organizations. Data items to be collected include professional diagnostic information, services needed and provided, and the state and local cost for selected programs.

Parents and guardians shall have the right to inspect any and all data which is subject to collection and to appeal the accuracy of any such information. The access of unauthorized persons to personally identifiable data without parental consent is forbidden. Interested parties may contact the appropriate agency/organization to ascertain the location of personally identifiable data.

One person in each SEA, LEA and participating agency/organization has responsibility for having access to the data. It is required that all data be destroyed within five years following the completion of special services to the child. Parents will be notified prior to the collection and destruction of personally identifiable data. For further information regarding the survey or regarding the person to contact for information, you may contact:

Mrs. Lee Parrish, Program Information Coordinator
Office of Programs for the Handicapped
State Department of Education
311 Rutledge Building
1429 Senate Street
Columbia, South Carolina 29201

LEA's will have the responsibility for submitting a similar notice to all local newspapers during the month of March, 1976.

B. Agency/Organization Meetings.

A series of meetings will be held with the participating agencies/organizations for the purpose of delineating the guidelines required for confidentiality. Copies of the following notice will be provided to each participating agency and to LEA's. (These notices will be of sufficient quantity to assure that they may be seen and/or otherwise made public to the parents of children upon whom information may be collected).

A NOTICE TO PARENTS

The (agency/organization name entered) is conjointly engaged in collecting selected information on mentally handicapped, emotionally handicapped, learning disabled, hearing handicapped, speech handicapped, visually handicapped, orthopedically handicapped, deaf-blind, and developmentally disabled children birth through twenty-one years of age, for the purposes of determining present and future program needs and for statistical reporting. Participating agencies/organizations include the South Carolina Department of Education, local educational agencies, South Carolina Department of Mental Health, South Carolina Department of Mental Retardation, South Carolina Department of Health and Environmental Control, Vocational Rehabilitation, South Carolina Commission for the Blind, United Cerebral Palsy, Head Start, Urban League, South Carolina School for the Deaf and Blind, Charles Lea Center, Youth Services, Babcock Center, Department of Corrections and the South Carolina Opportunity School.

Information which could identify an individual child will not be released to unauthorized persons. As a parent, you are guaranteed the right to inspect any such information which is subject to collection and to challenge the accuracy of the information. Access by any unauthorized person to information which would identify an individual child, without informed consent of the parent, is expressly forbidden.

This agency/organization maintains the responsibility for the confidential maintenance and storage of this information and for the destruction of this information following the termination of services for that child. Parents will be notified prior to the destruction of the data.

II. Access Rights

Parents are guaranteed full and free access to information which is collected and maintained regarding their children by the SEA, LEA's and other participating agencies/organizations.

A. Parents shall have the right to:

1. Inspect, review and procure copies of any and all data pertaining to their children at a reasonable cost (or at not cost if parents are unable to pay).
2. Have records available to them within forty-five (45) days subsequent to specific request.
3. Receive, upon specific request, an explanation or interpretation of data pertaining to their children.
4. Challenge the accuracy or appropriateness of data pertaining to their children.
5. Authorize or deny, by virtue of informed consent, requests for release, transfer or usage of data for purposes or to individuals other than those designated (Reference II, B).
6. Receive, upon specific request, a list of names of persons to whom personally identifiable data has been released, an explanation of the specific type of data released, and the purpose for which it was released.

7. Receive, upon specific request, the name of the designated person in the SEA, LEA, and other participating agencies/organizations who is responsible for the collection and maintenance of personally identifiable data.
8. Receive, upon specific request, a list of the types of data collected and the specific location thereof.
9. Receive, upon specific request, copies of printed policies and procedures developed to insure the confidentiality of personally identifiable data from the SEA, LEA's and other participating agencies/organizations.

B. Access to Data at State and Local Level

1. The SEA, LEA's and participating agencies/organizations are authorized to collect personally identifiable data. Participating agencies/organizations currently include:
    a. Department of Mental Retardation
    b. Department of Mental Health
    c. Department of Health and Environmental Control
    d. Department of Vocational Rehabilitation
    e. South Carolina Commission for the Blind
    f. United Cerebral Palsy
    g. Head Start
    h. Urban League
    i. South Carolina School for the Deaf and Blind
    j. Charles Lea Center
    k. Youth Services

    l. Babcock Center
    m. Department of Corrections

2. One person shall be designated to be responsible for the collection and maintenance of personally identifiable data in the SEA, LEA's and participating agencies/organizations.
3. The SEA, LEA's and participating agencies/organizations shall maintain records of parties obtaining access to personally identifiable data. The records shall include:
    a. the name of the party to whom personally identifiable data is disclosed
    b. the specific data disclosed
    c. the purpose for which data was disclosed.
4. LEA's are authorized to collect and maintain personally identifiable data for the following purposes:
    a. program planning, budgeting and evaluation
    b. placement/services for children
    c. employment training and placement of children
    d. establishing a basis for referral
    e. establishing a basis for evaluation.
5. The SEA is authorized to collect and maintain personally identifiable data for the following purposes:
    a. program planning, budgeting and evaluation
    b. provision of services to handicapped children
    c. monitoring programs for handicapped children
    d. enforcing state and federal requirements.

6. Participating agencies/organizations are authorized to collect and maintain personally identifiable data for the following purposes:
    a. program planning, budgeting and evaluation
    b. placement/services for children
    c. employment training and placement of children
    d. establishing a basis for referral
    e. establishing a basis for evaluation.

III. Hearing Rights

Parents have the right to request appropriate amendments to data which they believe is inaccurate, misleading, or violates the privacy of other rights.

A. Procedures established in LEA's to insure parents' rights to challenge the accuracy of data (in accordance with procedural "due process" as outlined in the FY '76 amendments to P.L. 93-380).

1. Parents shall submit a written or otherwise formal request for appropriate amendments to data to the district superintendent or his designee.
2. The LEA shall notify the parents within fifteen (15) working days of the disposition of the request.
    a. When the parents' request is accepted, the appropriate amendments shall be made.
    b. When the request is denied, parents shall be informed of their right to request a hearing.
3. Parents shall submit a written or otherwise formal request for a hearing to the district superintendent or his designee.

4. The LEA shall submit the parents' request and all previous correspondence to an impartial hearing officer.

5. Within five (5) days after receipt of a request for a hearing, the hearing officer shall notify all parties of the date, time and location of the hearing.

   a. Parents have the right during the hearing to present witnesses and relevant issues and at the expense of the parents, be represented by legal counsel.

   b. Within five (5) days subsequent to the hearing, the hearing officer shall notify all parties of the decision based on the evidence and testimony presented.

   c. The notification by the hearing officer shall include a summary of the proceedings of the hearing, justification for the decision and the parents' right to a judicial appeal should they oppose his decision.

6. When the decision of the hearing officer is that the data is inaccurate, the appropriate amendments shall be made by the LEA.

7. When the decision of the hearing officer is that the data is accurate, the LEA shall inform parents of their right to provide the LEA with a written statement of their reasons for disagreeing with the data. The statement shall be attached to the data and remain as long as the contested portion of the data is maintained.

8. Disclosure of the contested portion of the data to authorized persons, subsequently, shall include a copy of the parents' statement.

B. Hearing procedures for participating agencies/organizations other than the LEA, LEA's:
Currently the South Carolina Department of Education does not possess the authority to prescribe specific procedures to conduct hearings to challenge the accuracy of confidential data that may be maintained on the clientele of participating agencies/organizations. In consequence thereof, the South Carolina Department of Education solicits the cooperation of participating agencies/organizations in developing hearing procedures compatible with those described herein, for LEA's (Reference III, A). Specific hearing procedures for this purpose will be approved by the State Department of Education for those participating agencies/organizations with whom the Department of Education maintains contractual relationships and/or possesses the authority to approve the educational programs. Such approvals or "consent agreements" shall be applicable to the participating agency/organization at the state level and all local subdivisions under the jurisdiction or control of the parent agency.

IV. Consent

A. Parental consent must be obtained prior to:

1. The disclosure of data to anyone other than individuals designated (Reference II, B).
2. The utilization of data for purposes other than those designated (Reference II, B).

3. The conducting of formal evaluations, interviews or testing accomplished for the purpose of placing pupils in appropriate programs for the handicapped.
    a. In the event that parental permission cannot be obtained prior to formal evaluations, LEA's may invoke hearing procedures as specified (Reference III, A).
    b. In the event that parental permission cannot be obtained prior to formal evaluations in other participating agencies/organizations, hearing procedures may be invoked by the participating agencies/organizations. Approval of these procedures shall be in concert with the constraints set forth (Reference III, B).

V. Safeguards

A. The SEA, LEA's and other participating agencies/organizations shall protect the confidentiality of personally identifiable data at collection, storage, disclosure and destruction stages.

B. Training or instruction regarding state policies and procedures shall be provided to persons collecting or using personally identifiable data.

C. One official at the SEA, LEA's and participating agencies/organizations shall be designated as the responsible person for insuring the confidentiality of personally identifiable data.

D. The SEA, LEA's and participating agencies/organizations shall maintain for public inspection, a list of the names of those employees having access to personally identifiable data (Reference II, B).

VI. Destruction of Data

A. All personally identifiable data collected for purposes set forth herein (Reference II, C) shall be destroyed within five (5) years after data is no longer needed to provide educational services to the child except that a personal record consisting of pupil's name, address, telephone number, his/her grades, attendance record, classes attended, grade level completed, and the year completed may be maintained without time limitation.

B. Forty-five (45) days prior to destruction of data, the parents shall be notified that they have the right to request and be provided, at a reasonable cost, a copy of any data which has been obtained or used for the purposes set forth herein (Reference II, C).

VII. Children's Rights

Pupils, upon reaching age of majority, shall have the same rights as the rights of parents as stated herein (Reference II, B), except in the case of severely or profoundly handicapped child who is legally determined to be incompetent to make such decisions for himself, and for whom legal guardianship is required beyond age of majority. In those instances, the legal guardian shall maintain the rights to privacy as outlined.

VIII. Enforcement

Owing to the diversity of authority, program organization and delivery of services, varying procedures for enforcement of the policies stated herein for the protection of personally identifiable data shall be utilized.

A. Enforcement of confidentiality policies with respect to LEA's and those agencies for whom the State Department of Education has accreditation authority:

1. LEA's and agencies for which the SEA has accreditation authority certify that the SEA's policies for the protection of personally identifiable data are maintained. Assurances are certified through such mechanisms as Annual District Plan for Programs for Handicapped Children and Defined Minimum Program.

2. Should these assurances not be provided, the Office of Programs for the Handicapped shall transmit this information to the Accreditation Section of the Office of General Education of the South Carolina Department of Education. The Office of General Education shall initiate established procedures to assign accreditation deficiencies which, if not corrected, could culminate in the loss of accreditation of the LEA or agency by the South Carolina Board of Education's established procedures for redress of grievances.

   In the event "just cause" can be demonstrated that violations are occurring, the State Department of Education shall advise the plaintiff of legal alternatives.

3. If evidence suggests that LEA's or agencies for which the State Department of Education has accreditation authority are in violation of the policies set forth subsequent to providing assurances for the protection of personally identifiable data, this evidence will be provided to the Accreditation Section of the Office of

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General Education who shall invoke the procedures above.

B. Enforcement of confidentiality policies with respect to participating agencies/organizations other than LEA's and those agencies over which the State Department of Education has accreditation authority:

1. The South Carolina Department of Education does not currently possess authority to enforce the policies for protection of personally identifiable data as set forth herein with respect to all agencies/organizations prociding educational programs and/or related services for handicapped children. Enforcement in those few agencies with whom the State Department of Education has no contractual relationship nor accreditation authority shall be encouraged to voluntarily subscribe to the policies set forth by the various agencies with whom allied. In the event "just cause" can be demonstrated that violations are occurring, the State Department of Education shall advise the plaintiff of legal alternatives.

C. Those agencies maintaining contractual relationships and/or program approval by the South Carolina Department of Education shall be accorded the following procedures when "just cause" of suspected violations are demonstrated:

1. Notification shall be transmitted to the Chief Executive Officer, along with supporting information with respect to the alleged violation(s).

2. The Chief Executive Officer (or his designee) of the agency concerned shall respond to the notice within thirty(30) working days subsequent to mailing of the notification. If no response is received within thirty (30) days, the notification procedure shall be replicated. If no response is received within fifteen (15) working days subsequent to the second notification, then the State Superintendent of Education may authorize that no further payment be made under the obligation of any financial contacts until the matter is resolved.
3. Should the response, in the judgement of the State Superintendent of Education, demonstrate an appropriate resolution of the alleged complaint, the matter will be deemed concluded.
4. In instances where payment under financial contracts has been suspended, by the State Superintendent of Education, the agency/organization shall have the right to a hearing.

Procedures for the Hearing

a. Upon notification by the State Superintendent of Education that further payments have been deferred under any contractual relationships between the department and the participating agency/organization (or subdivisions thereof), the agency/organization may request a hearing within thirty (30) working days from the date of receipt of the notification of suspended payments.

    b. The hearing shall be conducted by three (3) members of the South Carolina Department of Education State Advisory Committee on Programs for the Handicapped. The Department of Education and the agency/organization concerned shall have the right to present witnesses and testimony thereof. Upon conclusion of the hearing, recommendations of the chairperson of the subcommittee shall be presented in writing within ten (10) working days of adjournment of the hearing. The State Superintendent of Education shall then present the recommendations of the chairperson of the hearing to the State Board of Education at its next scheduled meeting. The Board shall render a decision binding on all parties.

D. Ongoing enforcement activities shall consist of Annual District Plan for Programs for Handicapped Children approval and Defined Minimum Program approval (including assurances), program audits by professional staff members of the South Carolina Department of Education, and an investigation of alleged violations directed to the South Carolina Department of Education by other means.

A statement of compliance with the policies of the State Department of Education, approved by the State Department of Education, shall become a condition of future contractual relationships between the Department of Education and the participating agencies. Such policies shall pertain to vendored services/programs sub-contracted by participating agencies/organizations.

VII. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION (121a.129)

This information is incorporated by reference from the FY 1979 State Plan and can be found in Attachment #1. Additions to this information are provided below:

1. Representatives of the parents have the right to inspect and review records following written authorization by the parents.

2. Upon receipt of a written/oral request from parents to inspect or review records, the LEA/agency must comply with the request prior to any meeting regarding an individualized education program or hearing relating to the identification, evaluation or placement of the child.

3. An LEA/agency may presume that the parent has the authority to inspect and review records relating to his or her child unless the agency has been advised, through written documentation, that the parent does not have the authority under State law governing such matters as guardianship, separation or divorce.

4. The record of access must include the date access was given.

5. Parents have the right to (1) review and inspect only the information relating to their child, or (2) be informed of that specific information.

6. An LEA/agency may not charge a fee to search for and retrieve information within LEA purview.

7. An educational agency or institution may not release information from educational records without parent consent to any agency other than those authorized in Section 438 (b)(1)(A)(B)(C) of the General Education Provisions Act, as amended. (Reference Appendix #1, Section II, B, pages 5 and 6).

8. When a parent refuses to provide consent for the release of information, the procedures for requesting a hearing as described in Section III, A and B, pages 7-9 of this part may be invoked.

9. An LEA/agency shall require a current listing of the names and positions of those employees within the LEA/agency who may have access to personally identifiable information.

10. Personally identifiable information must be destroyed at the request of parents (except that the student's name, address, phone number, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation).

11. A public agency shall inform parents when personally identifiable information collected, maintained or used, is no longer needed to provide educational services to the child.